

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NORTH CAROLINA  
3 ASHEVILLE DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

No. 1:19-CR-5-MR-WCM

7 JOSEPH JUMPER,

8 Defendant.

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10  
11 TRANSCRIPT OF MOTION TO SUPPRESS  
12 Held before JUDGE W. CARLETON METCALF  
13 August 6th, 2019

14 APPEARANCES:

15 For the Government:  
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18 For the Defendant:  
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21 ALSO PRESENT:  
22 Joseph Jumper

23  
24 Court Reporter: Beverly Bourlier James, RPR  
25 Stenograph with Computer Aided Transcription

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1 THE COURT: Good morning, counsel.

2 MS. SISON: Good morning, your Honor.

3 MR. EASON: Good morning, your Honor.

4 THE COURT: The Court will call the case of the  
5 United States versus Joseph Jumper. This is 1:19-CR-5.  
6 This matter is before the Court this morning for an  
7 evidentiary hearing on the Defendant's motion to suppress.

8 There are some preliminary issues that need to  
9 be addressed before we begin the evidence and I'm going to  
10 go through those now. The first preliminary issue that I  
11 see pertains to the parties' filings. Mr. Eason, I see  
12 that the Government has filed a document there in the case  
13 which appears to be the rights form, that's document  
14 number 19-1, filed on May the 31st. That document appears  
15 to have the Defendant's Social Security number on that.

16 MR. EASON: Yes, your Honor, I apologize.  
17 That's a redaction that should have been made on my part.

18 THE COURT: So if you will file a redacted copy  
19 of that document.

20 And then with respect to the Defendant's  
21 filings, Ms. Sison, I see that the Defendant has filed  
22 document number 23-4 on July the 8th, 2019, which document  
23 would appear to me to be a transcription of the interview  
24 of the Defendant. And that document includes references  
25 to minors as well as third parties. That document, it

1 appears to me, is not filed under seal. I was a little  
2 surprised to see that going in the record. It would  
3 appear to me that that document should be sealed.

4 Mr. Eason, does the Government have a position  
5 in that regard?

6 MR. EASON: That maybe sealing would be the most  
7 appropriate way.

8 THE COURT: Any objection to that?

9 MS. SISON: No, that would be fine, your Honor.

10 THE COURT: All right. So ordered.

11 The next preliminary issue pertains to the  
12 victim in this case. Mr. Eason, has the alleged victim or  
13 her parent or guardian been notified of this hearing and  
14 accord the rights set forth in the Crime Victims' Rights  
15 Act?

16 MR. EASON: They have and they are present.

17 THE COURT: How much time does the Government  
18 expect to need for its evidentiary presentation,  
19 Mr. Eason?

20 MR. EASON: For its evidence, your Honor,  
21 pending some stipulations that we hope the Court will  
22 accept, we anticipate three agents. I would hope we can  
23 finish up before 11:00 with all of their evidence.

24 THE COURT: Ms. Sison, how long do you expect  
25 the Defense evidence to be?

1 MS. SISON: Probably an hour to hour and a half.

2 THE COURT: For planning purposes on my part,  
3 I'll let you put on all the evidence you need to put on.

4 Will there be any further preliminary issues  
5 that need to be addressed before we begin the evidence,  
6 anything from the Government, Mr. Eason?

7 MR. EASON: Your Honor, there have been items  
8 introduced previously through filings, specifically, the  
9 transcript which your Honor referenced earlier and a video  
10 of the interview in question. At this time, I would ask  
11 the Court to just adopt those by stipulation and admit  
12 them into the record so that they can be considered by  
13 your Honor for the purposes of this hearing.

14 THE COURT: Do you agree with that, Ms. Sison?

15 MS. SISON: Yes, your Honor.

16 THE COURT: I have not seen the video. I have  
17 not seen a copy of that document.

18 MS. SISON: I think that was presented to the  
19 Court a while back at the same time that we filed -- and I  
20 believe that there was a notice that I had received  
21 notifying Mr. Eason that I have provided you a hard copy  
22 of it.

23 THE COURT: We will check on that to make sure.

24 MS. SISON: Yes. So that's what it was, your  
25 Honor, I think that was with the -- I'm trying to remember

1 if it was with the motion or with the reply.

2 THE COURT: Which party will be submitting the  
3 transcript and the video?

4 MR. EASON: Your Honor, I've asked them to be  
5 Government's exhibits.

6 MS. SISON: We do have a correction with the  
7 transcript. So if we can just let the Court know where  
8 those corrections are, it's just the party's name, it's  
9 not the substance of the -- what was said.

10 But on page 3 of the transcript, on line 24,  
11 that should be Officer Cable, not Mr. Jumper.

12 And then on page 35, on line 23, instead of  
13 Detective Cable, it should be Detective Iadonisi.

14 THE COURT: Let me make sure I got that. So  
15 page 3, line 24 should be Officer Cable and not the  
16 Defendant. And did you say page 35, line 23?

17 MS. SISON: That's correct, your Honor.

18 MR. EASON: Should be Detective Iadonisi, not  
19 Detective Cable.

20 THE COURT: I'll make a note of that.

21 MR. EASON: Going back, it appears that the  
22 video was received in chambers May 6th and there was an  
23 email sent to confirm that.

24 THE COURT: All right. Thank you.

25 We will confirm that the subject to confirmation

1 exhibit -- the Government's Exhibit 1 and 2, that would be  
2 the video would be Exhibit 1 and the transcript will be  
3 Exhibit 2 as now corrected on the record, will be accepted  
4 and admitted.

5 (Government's Exhibit 1 was admitted in  
6 Evidence.)

7 (Government's Exhibit 2 was admitted in  
8 Evidence.)

9 THE COURT: Will there be anything further to  
10 address preliminarily here before we begin the evidence?

11 MS. SISON: Mr. Eason and I spoke about our  
12 expert Dr. Richard Leo who is present. I do have his CV,  
13 but it was also attached to the reply. The Government is  
14 not objecting to our use of him as an expert, although I  
15 would let the Court know I will discuss his qualifications  
16 for the appellate record.

17 THE COURT: All right. Is there any question  
18 before the Court at this time or you just letting me know  
19 that that's coming, Ms. Sison?

20 MS. SISON: Yes, your Honor.

21 THE COURT: I'll take that issue as necessary  
22 when we get into the evidence.

23 Anything further preliminarily before we begin  
24 the evidentiary presentation from either side?

25 MS. SISON: Your Honor, I would just ask that

1 the witnesses be sequestered with the exception of our  
2 expert witness because he is here to discuss the testimony  
3 and also the video and the transcript.

4 THE COURT: Mr. Eason, what says the Government?

5 MR. EASON: We don't object to sequestration,  
6 your Honor.

7 THE COURT: Will you have a case agent or a  
8 representative of the Government?

9 MR. EASON: No, your Honor.

10 THE COURT: All right. That request will be  
11 allowed and the Government's witnesses will be  
12 sequestered. And, Mr. Eason, I take your statement there  
13 to mean also you do not object to the Defendant's expert  
14 being present in the courtroom?

15 MR. EASON: No, your Honor.

16 THE COURT: Thank you.

17 Anything further that needs to be addressed  
18 before we begin the evidence?

19 MS. SISON: Your Honor, I wasn't sure if you  
20 knew co-counsel here Jared Martin, but I just wanted to  
21 introduce he's sitting at counsel table.

22 THE COURT: Mr. Martin, welcome.

23 MR. MARTIN: Thank you, your Honor.

24 THE COURT: All right, Mr. Eason, the Government  
25 can begin its evidence.



1 MR. EASON: Thank you, your Honor.

2 The first witness for the Government will be  
3 Jason Cable.

4 THE COURT: Please come around to be sworn.

5 THEREUPON:

6 JASON CABLE

7 called as a witness on behalf of the Government herein, duly  
8 sworn and responding "I do," was examined and testified as  
9 follows:

10 THE COURT: Mr. Eason, before you begin  
11 questioning Mr. Cable, have all your witnesses now left  
12 the courtroom?

13 MR. EASON: Yes, your Honor. I don't anticipate  
14 calling anyone that remains in the courtroom.

15 THE COURT: Thank you, sir. You may proceed.

16 DIRECT EXAMINATION

17 BY MR. EASON:

18 Q. Good morning. If you would please state your  
19 name and spell it for the court reporter.

20 A. Jason David Cable, J-A-S-O-N D-A-V-I-D  
21 C-A-B-L-E.

22 Q. How are you employed, sir?

23 A. I'm employed with the Cherokee Indian Police  
24 Department.

25 Q. How long have you been with the Cherokee Indian

1 Police Department?

2 **A.** Since March of 2008.

3 **Q.** And do you have any other previous law  
4 enforcement experience prior to that?

5 **A.** Yes. I was employed with the Graham County  
6 Sheriff's Office for four years and almost a year for Swain  
7 County Sheriff's Office.

8 **Q.** What position do you currently hold with the  
9 Cherokee Indian Police Department?

10 **A.** I'm a criminal investigator with the  
11 investigations division.

12 **Q.** How did you become aware of this case, this  
13 Defendant, Joseph Jumper?

14 **A.** At the time, Sergeant Mary Lambert, she was the  
15 acting interim for the lieutenant over the investigations  
16 division, she requested that I assist in attempting to  
17 locate the individual in question and bring him to the  
18 police department.

19 **Q.** And were you able to locate Mr. Jumper?

20 **A.** Yes, sir.

21 **Q.** Could you tell the Court a little bit about how  
22 that happened?

23 **A.** On the day in question, myself and Detective  
24 Daniel Iadonisi, last name is I-A-D-O-N-I-S-I, myself and  
25 Detective Daniel Iadonisi, we met Lieutenant Eric Oswalt in

1 the Snowbird Community, which is in Graham County, and  
2 Lieutenant Oswalt escorted us to a known location in which  
3 Mr. Jumper was supposed to reside.

4 Q. Now, when you say "the day in question," is that  
5 the same date as the interview, August 29, 2018?

6 A. That's correct.

7 Q. Do you recall about what time of the day it was  
8 when you guys went to seek out Mr. Jumper?

9 A. It was in the afternoon hours. I think it was  
10 around maybe 4:00 p.m., somewhere along there.

11 Q. And for those who might not be familiar with  
12 Snowbird Community, where is that located?

13 A. It's in Graham County. The town is  
14 Robbinsville, North Carolina.

15 Q. And is that located on the Eastern Band of  
16 Cherokee Indians, within the confines of the reservation?

17 A. Yes. There is reservation land in Graham County  
18 as well.

19 Q. So were you guys able to locate Mr. Jumper  
20 there?

21 A. We wasn't -- we went to a residence which was  
22 stated to be his residence in which no one -- we knocked on  
23 the residence and no one would come to the door. Some  
24 additional patrol units that works with the Cherokee Indian  
25 Police Department, they was assisting as well, and Officers

1 Dewitt Chicawily (phonetic) and Hannah Mathieson, I think  
2 that's her last name, they located Mr. Jumper at a nearby  
3 residence.

4 Q. Did you make contact with Mr. Jumper there?

5 A. Yes.

6 Q. What did you say you wanted to do with  
7 Mr. Jumper at that time?

8 A. We asked Mr. Jumper if he would come to the  
9 Cherokee Indian Police Department in reference to an  
10 investigation that was ongoing and that we needed to speak  
11 with him to ask him some questions about.

12 Q. Was he placed under arrest at that time?

13 A. No, he was not.

14 Q. Was he placed in handcuffs at that time?

15 A. No, he was not.

16 Q. Did Mr. Jumper agree to go with you, accompany  
17 you to the Cherokee Indian Police Department?

18 A. Yes, he did.

19 Q. Approximately how far away is the Cherokee  
20 Indian Police Department from the Snowbird Community?

21 A. It's at least an hour drive from where we was at  
22 to the police department.

23 Q. Once you arrived at the Cherokee Indian Police  
24 Department, what did you do with Mr. Jumper?

25 A. Mr. Jumper was placed in one of our two recorded

1 interview rooms. He was brought in and set down. He was  
2 not handcuffed at that time and he was allowed his cell  
3 phone. And we seated him inside the room and started the  
4 recording and then we started -- proceeded to interview  
5 Mr. Jumper.

6 Q. Tell me a little bit about that environment.  
7 How long is the room?

8 A. I'm just estimating, maybe 15-foot by 8 feet,  
9 somewhere along there.

10 Q. Are there video cameras recording what's going  
11 on in the interview?

12 A. Yes, sir, it is.

13 Q. What's the purpose of those video cameras?

14 A. To document everything that is said and view.

15 Q. Does the interview room door lock?

16 A. No, it does not.

17 Q. So it's not a locked door?

18 A. No, it is not locked.

19 Q. To get into the Cherokee Indian Police  
20 Department, do you have to proceed through a secure door?

21 A. Except for the main entrance, during normal  
22 business hours, those doors are opened, but we brought  
23 Mr. Jumper through the back of the police department, which  
24 requires a security card.

25 Q. Does it require a security card to exit?

1           **A.**       No, it does not.

2           **Q.**       So Mr. Jumper was permitted to retain his cell  
3 phone during the course of the interview?

4           **A.**       That's correct.

5           **Q.**       And is there free wi-fi within the police  
6 department and the courthouse?

7           **A.**       Yes, there is.

8           **Q.**       Were you present for the entirety of the  
9 interview of the Defendant?

10          **A.**       I wasn't in the room for the entirety of the  
11 interview, but I was present there at the police department.

12          **Q.**       So you weren't in the room interviewing him the  
13 entire time, but you were at the police department?

14          **A.**       Yes.

15          **Q.**       Were you able to observe the entirety of the  
16 interview?

17          **A.**       Yes.

18          **Q.**       Who was with you when you began the interview  
19 with the Defendant?

20          **A.**       Initially, the interview was -- began with  
21 myself and Detective Daniel Iadonisi.

22          **Q.**       Prior to asking the Defendant any questions, did  
23 you make him aware of his rights under Miranda?

24          **A.**       Yes. Detective Daniel Iadonisi read him his  
25 Miranda rights and he was also given a copy.

1 MR. EASON: If I may approach, your Honor.

2 THE COURT: You may.

3 BY MR. EASON:

4 Q. Showing you what I've marked for this hearing as  
5 Government's Exhibit Number 3. Can you identify that  
6 document for the Court, please?

7 A. That is the Cherokee Indian Police Department  
8 Criminal Investigations Division, it was the rights form.

9 Q. And what is the purpose of this document?

10 A. This is to advise the people being questioning,  
11 as far as who are being interviewed, their Fifth Amendment  
12 rights.

13 Q. And also their Sixth Amendment rights about an  
14 attorney, is that correct?

15 A. That's correct.

16 Q. Now, how do you make sure that a Defendant  
17 understands these rights?

18 A. We read each sentence off, and if they  
19 understand that right, they will initial by each sentence.  
20 And also there is a waiver of rights at the bottom, which if  
21 they have any -- if they wish to speak with us, they sign  
22 that and it is witnessed.

23 Q. If it's not -- if a person doesn't sign each of  
24 those boxes indicating that they understand their rights, do  
25 you proceed to interview them?

1           **A.**       As long as they don't request an attorney. I  
2 mean, they can refuse to initial these, but until they  
3 verbally request an attorney, then we can still continue the  
4 interview.

5           **Q.**       What if they verbally request to terminate the  
6 interview?

7           **A.**       The interview is terminated.

8           **Q.**       This particular rights form, who filled out this  
9 information at the top?

10          **A.**       The top portion of it is the place, the date and  
11 the time, I filled out that information. I also  
12 witnessed -- I was a witness as far as the Miranda rights  
13 being read to Mr. Jumper and I also filled out the address  
14 in which he resided at.

15          **Q.**       On this form, did Mr. Jumper indicate that he  
16 understood each of the rights afforded to him?

17          **A.**       Yes, he did.

18          **Q.**       Did he sign that he wished to speak with you  
19 without an attorney present?

20          **A.**       Yes, he did.

21          **Q.**       Did you -- did he sign it in your presence?

22          **A.**       Yes.

23          **Q.**       Is that his signature there?

24          **A.**       Yes.

25          **Q.**       Is that your signature below?



1           **A.**       That is mine, yes.

2           MR. EASON: Your Honor, at this time, I'd move  
3 to admit Government's Exhibit 3.

4           THE COURT: Any objection, Ms. Sison?

5           MS. SISON: No, your Honor.

6           THE COURT: So admitted.

7           (Government's Exhibit 3 was admitted in  
8 Evidence.)

9 BY MR. EASON:

10          **Q.**       After you advised the Defendant of his rights --  
11 well, pardon me. While you were going over those rights, do  
12 you remember if the Defendant had any questions or asked for  
13 any specific clarifications as to any of those points?

14          **A.**       No.

15          **Q.**       As you were speaking to him, did the Defendant  
16 give you any impression that he wasn't understanding what  
17 you were saying?

18          **A.**       No. Whenever he was questioned, he answered  
19 with clear and direct answers.

20          **Q.**       When you brought him in, how was he dressed?

21          **A.**       He had a T-shirt on, some shorts and I think  
22 some tennis shoes.

23          **Q.**       Was that appropriate for the weather on  
24 August 29, 2018?

25          **A.**       Sure, yes.

1           **Q.**       When you began asking the Defendant questions,  
2           again, was there anything about his responses that gave you  
3           pause or make you concerned that he understand what --  
4           didn't understand what was going on?

5           **A.**       No.

6           **Q.**       Did the Defendant tell you of any disease or  
7           defect, mental or otherwise, that might hinder his ability  
8           to understand the proceedings?

9           **A.**       No. I mean, he was very coherent and alert, and  
10          he answered his questions very clear and direct.

11          **Q.**       During the course of the interview that you were  
12          in there with him, how was he behaving?

13          **A.**       He was -- his behavior was normal. There was  
14          nothing that stood out in my opinion that something was  
15          wrong or anything like that.

16          **Q.**       Was he yelling, screaming or crying or anything  
17          like that?

18          **A.**       No.

19          **Q.**       Was he sweating abnormally or pacing?

20          **A.**       No.

21          **Q.**       During the time period where you were with the  
22          Defendant and where you were observing the interview of the  
23          Defendant, did Mr. Jumper ever indicate that he wanted to  
24          stop the interview?

25          **A.**       No, he did not.

1           **Q.**       Did he ever indicate during the course of the  
2 interview or -- that you were present or that you were  
3 watching that he wanted an attorney --

4           **A.**       No.

5           **Q.**       -- or wanted to wait for one?

6           **A.**       He did not request one, no.

7           **Q.**       Did the Defendant ever tell the officers  
8 present, you or anybody else, that he felt uncomfortable or  
9 threatened by your presence?

10          **A.**       No.

11          **Q.**       Or your behavior?

12          **A.**       No.

13          **Q.**       Did the Defendant ever ask you to clarify or  
14 tell you he was confused by what you were asking?

15          **A.**       No, he did not.

16          **Q.**       Approximately how long did this interview last?

17          **A.**       There was a number of breaks in the interview in  
18 which Mr. Jumper was left by himself inside the interview  
19 room, however, the interview was recorded and documented in  
20 its entirety through video and audio.

21          **Q.**       About how long was that entire recording?

22          **A.**       The entire recording is about three hours long.

23          **Q.**       During that entire 3-hour period did the  
24 Defendant have access to his telephone?

25          **A.**       Yes, the whole time.

1           **Q.**       Did the Defendant ever ask any of the officers  
2 present to speak to anyone outside of the interview room or  
3 make a telephone call?

4           **A.**       Not while I was there, no.

5           **Q.**       Did he do that while you were observing him on  
6 the --

7           **A.**       Not that I seen, no.

8           **Q.**       Did the Defendant ever ask to use the restroom  
9 or otherwise take breaks during this interview?

10          **A.**       I know Mr. Jumper was offered a number of times  
11 by the officers, the other detectives that were speaking  
12 with him, if he needed to use the restroom and also if he  
13 wanted anything to drink, and there was a time in which he  
14 was provided with water to drink and he was given a bathroom  
15 break.

16          **Q.**       Were you armed during this interview, were you  
17 wearing your sidearm?

18          **A.**       I think so. I'm pretty -- I usually do.

19          **Q.**       At any time, did you draw any type of attention  
20 to your firearm?

21          **A.**       No.

22          **Q.**       Did you ever take your firearm out and reference  
23 it in any way?

24          **A.**       No.

25          **Q.**       Did you or anyone that you saw ever point a

1 firearm at the Defendant?

2 **A.** No, sir.

3 **Q.** Did the Defendant initially admit or deny --  
4 well, what did you tell the Defendant about why he was  
5 there?

6 **A.** When we initially picked him up, we stated that  
7 we needed to speak with him and he referenced his  
8 girlfriend, that he thought that was what we wanted to speak  
9 with him about.

10 Once we got to the police department, I know  
11 myself, I asked him a question regarding, you know, when we  
12 first approached him that -- and told him we needed to speak  
13 with him, Mr. Jumper referenced his girlfriend and then he  
14 also willingly stated that he was -- he had heard he was  
15 being accused of molesting his girlfriend's daughter.

16 **Q.** So that's what he indicated was the reason he  
17 thought y'all wanted to talk to him?

18 **A.** Yes.

19 **Q.** And what did you tell him with regards to that?

20 **A.** I confirmed that there had been allegations made  
21 of inappropriate contact with the girlfriend's daughter.

22 **Q.** To your knowledge at that point, did there exist  
23 warrants for the Defendant's arrest?

24 **A.** There had been warrants issued prior to  
25 Mr. Jumper being picked up, yes.

1           **Q.**       Was he served with those warrants when he was  
2       picked up?

3           **A.**       No, he was not.

4           **Q.**       Was he served with those warrants when he was  
5       brought to the police department before the interview began?

6           **A.**       No, it wasn't until after the interview was  
7       completed.

8           **Q.**       Approximately how long did you spend with the  
9       Defendant in the interview room that night?

10          **A.**       Without looking minute for minute on the video,  
11       I'm going to estimate that I was probably in there with him  
12       maybe an hour total.

13          **Q.**       Who else was present during the interview  
14       process, to your knowledge?

15          **A.**       Myself, Detective Daniel Iadonisi and Detective  
16       Mary Lambert.

17          **Q.**       When you weren't present in the interview room,  
18       you were observed on the video monitors?

19          **A.**       That's correct.

20          **Q.**       Did you ever make any promises, explicit or  
21       otherwise, to the Defendant regarding what would happen if  
22       he spoke to you in that case?

23          **A.**       No, I did not.

24          **Q.**       At any time, did you observe anybody threaten  
25       the Defendant?

1           **A.**       No, I did not.

2           **Q.**       Did you observe anybody threaten the Defendant's  
3 family or even his girlfriend or her family?

4           **A.**       No, I did not.

5           **Q.**       Initially, the Defendant denied allegations, is  
6 that correct?

7           **A.**       That is correct.

8           **Q.**       Approximately when -- approximately how long  
9 into the interview did he begin to confess to inappropriate  
10 sexual contact with the minor child in question?

11          **A.**       I know I had already -- I had stepped out of the  
12 room and Detective Daniel Iadonisi and Detective Mary  
13 Lambert had initiated questioning with Mr. Jumper, and after  
14 Detective Mary Lambert had stepped out was whenever  
15 Mr. Jumper had made a confession that -- of the incident.

16          **Q.**       And when Mr. Lambert -- or when Detective  
17 Lambert stepped out, Mr. Jumper began to make those types of  
18 statements, how did -- did his -- pardon me.

19                    When he was making those statements, did  
20 Mr. Jumper express guilt or contrition for his behavior at  
21 all?

22                    MS. SISON:  Objection, leading.

23                    THE COURT:  Overruled.

24                    THE WITNESS:  Could you ask that one more time?

25                    I'm sorry.

1 BY MR. EASON:

2 Q. Did the Defendant, as he was making these  
3 statements, express any guilt or feelings of remorse for his  
4 behavior?

5 A. He was -- he was the same as far as his  
6 demeanor, the same the whole time through the whole  
7 interview, in my opinion.

8 Q. At the moment when he moved from denial to  
9 admission, did you see any substantial change in his  
10 appearance or demeanor?

11 A. Not in my opinion, no.

12 Q. He wasn't crying?

13 A. No, he was not.

14 Q. Was he giving any visible outward signs of  
15 intense duress?

16 A. No.

17 Q. So, if the entirety of the interview lasted --  
18 or if the entire video runs for approximately three hours --  
19 the video runs for approximately three hours, is that  
20 correct?

21 A. That's including the breaks. That's the  
22 entirety of it from the time he's -- we get there to the PD  
23 to the time he's taken out of the interview room.

24 Q. In the time between moving him from denials to  
25 admission, how long would you say that took as far as



1 questioning?

2 **A.** It would have been in the -- within the first  
3 two hours.

4 MR. EASON: If I may have just a moment, your  
5 Honor.

6 THE COURT: You may.

7 BY MR. EASON:

8 **Q.** Approximately how long had the Defendant been in  
9 the interview room with you and the other officers prior to  
10 executing the waiver of his Miranda rights?

11 **A.** As soon as we brought him into the interview  
12 room, within the first five minutes. When we come into the  
13 room and started speaking with him.

14 **Q.** It was one of the first things you did, in fact,  
15 sitting down, isn't it?

16 **A.** Correct.

17 **Q.** Did the Defendant ever tell you if he'd been  
18 drinking heavily that day or taken any controlled  
19 substances?

20 **A.** No, he did not.

21 **Q.** Did you observe the odor of alcohol about his  
22 person or any signs consistent with impairment on any type  
23 of substance?

24 **A.** No, I did not.

25 **Q.** Are you at all familiar with the Defendant, do

1       you know him or anything like that?

2           **A.**       No. I think this was my first time actually  
3 meeting Mr. Jumper.

4           **Q.**       During the course of the interview, did you or  
5 anyone else actually raise their voice at the Defendant?

6           **A.**       Not that I'm aware of, no.

7           MR. EASON: Those would be my questions for this  
8 witness, your Honor.

9           THE COURT: Ms. Sison, would you have cross  
10 examination?

11          MS. SISON: Thank you, sir.

12                           CROSS EXAMINATION

13 BY MS. SISON:

14          **Q.**       Prior to going to Mr. Jumper's house, there was  
15 already an arrest warrant, is that right?

16          **A.**       Yes, ma'am.

17          **Q.**       Did you see that prior to going there?

18          **A.**       I don't recall seeing it, there was another  
19 detective who had initially started the investigation who  
20 had drawn that warrant.

21          **Q.**       That was Officer Jenkins?

22          **A.**       Yes.

23          **Q.**       But it was Officer Lambert who told you to go to  
24 the house, is that right?

25          **A.**       That's correct.

1           **Q.**       But she herself did not go?

2           **A.**       Right.

3           **Q.**       If I told you that the warrant was issued at  
4 2:43 p.m., would you have a quarrel with that?

5           **A.**       No, ma'am.

6           **Q.**       And I think there was also a criminal complaint  
7 that was drafted at the same time?

8           **A.**       I --

9           **Q.**       Or was it prior to the warrant?

10          **A.**       Yes, ma'am.

11          **Q.**       And that was issued at 2:37, is that right?

12          **A.**       I -- I don't think there would be a reason why  
13 it wouldn't be then.

14          **Q.**       Okay. And, so, you and Lieutenant Iadonisi,  
15 were you wearing clothing that would indicate you were  
16 police officers?

17          **A.**       It's Sergeant Iadonisi.

18          **Q.**       I'm sorry.

19          **A.**       Yes, ma'am. We usually -- we wear polo-type  
20 shirts that's got our badge on it and name and -- unless  
21 we're in plain clothes, we also are plain clothes, but we  
22 usually have our neck badge like this (indicating).

23          **Q.**       And then I take it that day you were wearing it?

24          **A.**       Yes, ma'am.

25          **Q.**       And was Sergeant Iadonisi also wearing it?

1           **A.**           I'm not sure if he was. However, where  
2 Mr. Jumper was located, we were -- there was additional  
3 units in marked patrol units from the Cherokee Indian Police  
4 Department.

5           **Q.**           Was the car you were in marked?

6           **A.**           No, it was not.

7           **Q.**           You were driving, sir?

8           **A.**           No, I think Detective Daniel Iadonisi was  
9 driving the vehicle.

10          **Q.**           And the officers that were at I believe it was  
11 his cousin's home, did you plan to have them meet you there  
12 or did they just come by themselves?

13          **A.**           They was coming out to assist us in attempt to  
14 locate Mr. Jumper. They -- they are familiar with the area,  
15 so they had knowledge of Mr. Jumper, where he might be at.  
16 So they had went to this location upon theirselves and  
17 located Mr. Jumper.

18          **Q.**           You testified it took about an hour it get from  
19 where you were in Robbinsville to the police station, so I  
20 take it it took an hour to get from the police station to  
21 Robbinsville, is that right?

22          **A.**           Yes, somewhere about there, yes, ma'am.

23          **Q.**           How long did you stay at his house when you  
24 first got there?

25          **A.**           At Mr. Jumper's house?

1           **Q.**       His house.

2           **A.**       The first residence we went to, we went to the  
3 residence and knocked on the door; no one come to the door.  
4 There's a neighbor that resides real close to Mr. Jumper and  
5 she had come out and spoke with myself and Lieutenant Oswalt  
6 and Detective Daniel Iadonisi, and she was asked if she had  
7 seen Mr. Jumper, you know, within the last little bit, and  
8 she said she hadn't seen him in, I think, maybe a day or two  
9 or something like that.

10          **Q.**       And how did you know to go to the cousin's  
11 house?

12          **A.**       They -- through radio, the officers that  
13 initially located Mr. Jumper had contacted us through radio.

14          **Q.**       So, when you said they located him, did they  
15 actually go to the house and see him there or how did they  
16 find out he was at that house?

17          **A.**       I'm assuming that, once we got there, they had  
18 already initiated contact with Mr. Jumper, and I don't know  
19 how they found out or if the cousin told them that he was  
20 there or anything like that, but he was there.

21          **Q.**       And how would they have known to look for  
22 Mr. Jumper?

23          **A.**       Just working their area. They patrol that area  
24 and I guess they know Mr. Jumper as far as where he resides  
25 at.

1           **Q.**       Let me clarify that information. How would they  
2 know to be looking for Mr. Jumper that day?

3           **A.**       Due to Lieutenant Eric Oswalt was the one to  
4 assist us and he is the lieutenant over the patrol officers  
5 in that area, so he contacted them as well to help us.

6           **Q.**       All right. And, so, you met that Officer Oswalt  
7 at Mr. Jumper's house initially, right?

8           **A.**       We initially met him at a substation because,  
9 like I said, myself and Detective Daniel Iadonisi didn't  
10 really know the area which Mr. Jumper resides and he  
11 escorted us out to that residence in attempts to located  
12 Mr. Jumper.

13          **Q.**       At that point, there were two cars at  
14 Mr. Jumper's house?

15          **A.**       Yes, ma'am.

16          **Q.**       When you got to Mr. Jumper's cousin's house,  
17 there was at least one or two more patrol vehicles?

18          **A.**       Yes, ma'am.

19          **Q.**       And at least two other officers?

20          **A.**       Yes.

21          **Q.**       And you weren't present for the conversation  
22 with Mr. Jumper, were you?

23          **A.**       Not initially, no, ma'am, I was not.

24          **Q.**       Do you know how long they had been there before  
25 you got there?

1           **A.**       Once they contacted us, we went -- I mean, I  
2       think the drive from where Mr. Jumper's residence is to the  
3       location is maybe five minutes.

4           **Q.**       But you don't know how long they had been there  
5       prior to your getting there?

6           **A.**       No, other than them contacting us and letting us  
7       know that they located him.

8           **Q.**       And they were, I take it, in police uniforms?

9           **A.**       Yes, ma'am.

10          **Q.**       And by that time, Mr. Jumper was already with  
11       them?

12          **A.**       He was at that residence where they was at, yes,  
13       ma'am.

14          **Q.**       And when you came in contact with him, was he  
15       inside or outside the house?

16          **A.**       I want to -- he walked on the outside of the  
17       house and we spoke with him there, I think it was on the  
18       front porch where we initially made contact with Mr. Jumper.

19          **Q.**       When you say "we," are you talking about  
20       Sergeant Iadonisi or Officer Oswalt?

21          **A.**       We was all there. We all went to that location,  
22       so there was about five officers there.

23          **Q.**       Was anybody else present besides you, the  
24       officers and Mr. Jumper?

25          **A.**       His cousin was there at the residence. I'm

1 assuming that was a family member.

2 Q. Okay. And then you testified that you told him  
3 that I believe you were investigating something?

4 A. Yes, ma'am.

5 Q. Were you more specific?

6 A. We just informed him that we was investigating a  
7 case which he's allegedly involved in and that we would like  
8 to speak with him and ask him some questions about it.

9 Q. But you didn't say to him that he was a suspect  
10 at that time?

11 A. Just other than, you know, that his name had  
12 been mentioned being involved in it, so --

13 Q. But that could mean he could be a witness?

14 A. That's correct.

15 Q. Okay. And I take it you didn't tell him about  
16 the complaint or the arrest warrant?

17 A. No, I did not.

18 Q. All right. And, so, when he left with you, how  
19 long had you spoken to him before he came into the car?

20 A. Before he came into the car?

21 Q. Your car.

22 A. Once he -- he voluntarily agreed to come with  
23 myself and Detective Daniel Iadonisi to the Cherokee PD,  
24 once we spoke, it was maybe five minutes from the time that  
25 we got in the vehicle and left.



1           **Q.**       Did you ask him about an iPad?

2           **A.**       Yes.

3           **Q.**       And that conversation took place while you were  
4 still at his cousin's house?

5           **A.**       Right. And his cousin had brought out the iPad  
6 and gave it to the officers.

7           **Q.**       So the iPad was at the cousin's house and it was  
8 the cousin who gave it to the officer?

9           **A.**       Yes.

10          **Q.**       And which officer was that?

11          **A.**       That was myself.

12          **Q.**       Okay. So, when you drove with Mr. Jumper, was  
13 it in your car with Sergeant Iadonisi?

14          **A.**       Yes, ma'am.

15          **Q.**       And he was placed in the back seat?

16          **A.**       I want to -- the patrol vehicle itself, it does  
17 not have any kind of cage inside the vehicle, it's open, the  
18 front seats and the back seats are open, so there's no kind  
19 of confinement. I don't recall -- actually recall if he was  
20 placed in the front passenger seat or if he was put in the  
21 back seat.

22          **Q.**       Okay. So did you ask him any questions while he  
23 was in the car?

24          **A.**       Nothing case related, no, ma'am.

25          **Q.**       Did you ask him any questions, case related or

1 not?

2 **A.** I mean, I think there was a little bit of small  
3 talk, you know, about the weather, that type of thing, but  
4 nothing as far as regarding the case in specific, no, any  
5 kind of questions like that.

6 **Q.** What about Sergeant Iadonisi, did he ask him any  
7 questions?

8 **A.** No, ma'am, he did not.

9 **Q.** And can you describe the room a little bit, you  
10 said it was 15 by 8 feet?

11 **A.** Something like that.

12 **Q.** And it was one of the two rooms that was at the  
13 police headquarters, is that right?

14 **A.** Yes, ma'am.

15 **Q.** And that police headquarters, is that one that's  
16 connected to the tribal court?

17 **A.** Yes, ma'am, it is. Address is 137 Seven Clans  
18 Lane, Cherokee, North Carolina, 28719.

19 **Q.** You said you came towards the back, so you're  
20 not talking about the main entrance where the public would  
21 come in, is that right?

22 **A.** That's correct.

23 **Q.** And in order to get in, you said that you needed  
24 the security card, but you did not need one to get out?

25 **A.** That's correct.

1           **Q.**       And how many -- how big is the police  
2       headquarters, I know it's attached to the tribal court, but  
3       what part of it belongs to law enforcement versus what part  
4       of it is tribal court?

5           **A.**       It's sort of like divided. The best way I can  
6       explain it, it's divided sort of right down the middle. I  
7       mean, you just got almost an equal amount of space on the  
8       court side as you do the police department side.

9           **Q.**       And are there two or three stories?

10          **A.**       There's two stories.

11          **Q.**       Two?

12          **A.**       Two. The detention center is located on the top  
13       of the police department and courthouse.

14          **Q.**       And where is the -- where is the room that you  
15       interrogated him in in reference to where the police  
16       department is?

17          **A.**       It's located near the back of the police  
18       department from the main entrance. If you come through the  
19       main entrance, it will be located more towards the back of  
20       the building.

21          **Q.**       And we're talking about the first floor?

22          **A.**       Yes, ma'am.

23          **Q.**       One way out, as you describe it, would have been  
24       the back way?

25          **A.**       There is -- yes, you can go out the back way as

1 well as the front.

2 Q. Okay, but before you get to that door, you  
3 actually have to leave the interview room as well, is that  
4 right?

5 A. Yes. I mean, to get out, you have to leave the  
6 interview room, yes.

7 Q. And that interview room sounded -- from the way  
8 you describe it, had a two-way mirror because you said that  
9 you observed the entire interview?

10 A. No. What I'm saying as far as observed, the  
11 room has got audio and video recording. There was computers  
12 that are set up inside the investigators' office, which you  
13 can live monitor the interview as it is being conducted.

14 Q. Got it.

15 And, so, how far away was that room from the  
16 interview room?

17 A. It's adjacent to the interview room itself. I  
18 mean, you've got a wall that divides the interview rooms  
19 from the investigation room where the computers are located.

20 Q. So I take it there are no windows in that room?

21 A. There is a window that's in the interview room,  
22 however, it is covered by blinds.

23 Q. Okay. So a person can see outside?

24 A. They could see into the investigative office.

25 Q. But it was covered by blinds that day?

1           **A.**       Yes, ma'am.

2           **Q.**       And were there any desks?

3           **A.**       Inside the interview room?

4           **Q.**       Yes.

5           **A.**       There is one table and there's usually three  
6 chairs inside the interview room.

7           **Q.**       And where was Mr. Jumper placed in the interview  
8 room?

9           **A.**       As soon as you come into the door -- or into  
10 interview room, he was placed in the chair immediately to  
11 the left, which was the closest to the door.

12          **Q.**       And where were the other two chairs?

13          **A.**       They're -- where Mr. Jumper was seated, the  
14 chair is placed next to the door, there's a table that comes  
15 up against where he was seated. I was on the middle of the  
16 table and Detective Daniel Iadonisi, he was on the other  
17 opposite end of the table.

18          **Q.**       Okay. And you also indicated that -- is it  
19 Detective Lambert?

20          **A.**       Yes, ma'am.

21          **Q.**       She came in. Were three of you in the room at  
22 the same time at any point during the interview?

23          **A.**       No, ma'am, there was not.

24          **Q.**       Okay. And, so, when you first got there, I take  
25 it it was you and Sergeant Iadonisi that went into the room?

1           **A.**       That's correct.

2           **Q.**       Did you put him in that room by himself at some  
3 point and you two left?

4           **A.**       Yes.

5           **Q.**       And that was at the beginning?

6           **A.**       At -- before we started the initial  
7 interviewing, he was just placed in there until we got our  
8 materials together to come in and start interviewing him.

9           **Q.**       When he was placed there at that initial time,  
10 did the videotape start at that particular time or was there  
11 a pause?

12          **A.**       Yes. I mean, the video starts whenever he's in  
13 there prior to us coming in.

14          **Q.**       Okay. Now, before you got in there, did you,  
15 Sergeant Iadonisi or Detective Lambert have a plan as to how  
16 to interrogate Mr. Jumper?

17          **A.**       Did we have a plan?

18          **Q.**       Yes.

19          **A.**       Just it was going to be case specific type  
20 questions that Detective Jenkins had acquired through the  
21 initial investigation to try to question him about.

22          **Q.**       So, when you say "case specific," did he come up  
23 with the questions?

24          **A.**       Mr. Jumper or --

25          **Q.**       Jenkins.

1           **A.**       No, he did not.

2           **Q.**       So I take it prior to your questioning  
3 Mr. Jumper that you looked over Officer Jenkins' reports?

4           **A.**       I didn't personally look over the reports  
5 because, like I said, it come in, it was right at the end of  
6 the day whenever I was requested to do this, so it wasn't I  
7 was able to sit down and study this case, you know, in its  
8 entirety, so I was just kind of going off of information  
9 provided as far as statements made during the forensic  
10 interview with the minor child to question Mr. Jumper in  
11 that area.

12          **Q.**       I just want to make sure I understand that.  
13 There was a forensic interview of the minor child?

14          **A.**       Uh-huh.

15          **Q.**       When did that take place?

16          **A.**       I'm not sure, ma'am.

17          **Q.**       When did you get that information?

18          **A.**       The day of, that Mr. Jumper was interviewed.

19          **Q.**       And when you say "the day of," are you talking  
20 in the morning?

21          **A.**       That afternoon, August the 29th, I think, 2018.

22          **Q.**       But before you went out to Robbinsville?

23          **A.**       I had initially heard what the case was about.  
24 Like I said, I did not get the whole case file in its  
25 entirety on -- I didn't look over that whole case file.

1 This was kind of a spur -- I guess, I don't know if that's  
2 the right word to say, spur of the moment that Lieutenant --  
3 or she's not lieutenant, she's the acting lieutenant, she  
4 requested me to assist in the investigation and it had come  
5 in sort of at the end of the day.

6 Q. You're saying Investigator Lambert or --

7 A. Yes, ma'am, yes.

8 Q. Okay. And, so, I take it from what you said, I  
9 just want to make sure I understand it, you had not read any  
10 files, but the information you had gotten was orally given  
11 to you?

12 A. Right, that's correct.

13 Q. And that was by acting Officer Lambert?

14 A. I mean, like I said, Detective Larry Jenkins had  
15 initially started the investigation and he had provided  
16 information as far as the information provided during the  
17 forensic interview.

18 Q. And, again, did you get it from him or did you  
19 get it from Lambert?

20 A. He was there, you know, at the -- like I said,  
21 it's kind of like a group discussion what was going on, so  
22 he provided what was said in the interview.

23 Q. So I take it you yourself had not looked at any  
24 reports or even the medical information that you referred  
25 to?



1           **A.**       Not at the time, no, because we didn't know if  
2 we was actually going to locate Mr. Jumper. It was just an  
3 attempt to try to find him, bring him to the police  
4 department and try to conduct an interview with him.

5           **Q.**       And, so, besides Lambert, Jenkins and yourself,  
6 was Sergeant Iadonisi there as well?

7           **A.**       He was.

8           **Q.**       And, so, it was the four of you having this  
9 discussion?

10          **A.**       I don't -- I can't really answer for Detective  
11 Daniel Iadonisi as far as if he was present during that, but  
12 he was -- I mean, he was obviously there because he's in the  
13 interview with me on the video.

14          **Q.**       I'm talking about when you were talking to  
15 Lambert and Jenkins, was Sergeant Iadonisi present?

16          **A.**       I can't answer that. I don't know.

17          **Q.**       Okay. And this happened before you went to  
18 Robbinsville?

19          **A.**       Yes.

20          **Q.**       Okay. Now, sir, have you gotten any training in  
21 how to interrogate people?

22          **A.**       Yes, ma'am, I have.

23          **Q.**       Can you describe that training for me?

24          **A.**       I took a number of interview interrogation  
25 classes. Now those classes are not, I guess, sexual child

1 abuse as far as oriented, you know, it's just the basic type  
2 how to try to interview subjects, you know, techniques  
3 that's used and worked in the past, you know, trying to  
4 build a kind of rapport with the people you're speaking with  
5 and just establishing a baseline.

6 Q. Okay. So you've taken a number of classes?

7 A. Uh-huh.

8 Q. And do you talk specifically about child abuse  
9 cases, is that right?

10 A. I don't myself. I don't work a lot of child  
11 abuse crimes, so it's kind of -- and I'll be honest with  
12 you, it's a gray area in which I work. I work mostly mainly  
13 adult-type crimes. So we have our own CVU department which  
14 usually handles those type of cases and that's something  
15 that I don't have a lot of experience in as far as  
16 child-related crimes.

17 Q. Okay, but you do have experience questioning  
18 adults, I take it?

19 A. Yes, ma'am.

20 Q. And, so, these classes that you took, were they  
21 part of your training as a police officer?

22 A. It's classes I took myself, you know, through  
23 the department or the departments that I've been able to  
24 attend, yes, ma'am.

25 Q. And, so, when you say you took yourself, you

1 weren't forced to take them?

2 **A.** No, I was not.

3 **Q.** But they were all by -- sponsored by the police,  
4 we're not talking about like an outside company that's not  
5 police affiliated?

6 **A.** No. I took classes through the North Carolina  
7 Justice Academy. Stan Walters, he's kind of an outside guy,  
8 but he's done a number of interviews, documenting interviews  
9 as well. And Reid technique is another one.

10 **Q.** What was the technique?

11 **A.** Reid technique.

12 **Q.** R-E-I-D?

13 **A.** Yes, ma'am. And they do an interview and  
14 interrogation class as well.

15 **Q.** And how long ago did you take those classes?

16 **A.** I've been in law enforcement now for 17 years,  
17 over 17 years, so it's been spread out over the number of  
18 years. I mean, I have recently just actually took an  
19 interview and interrogation class at the justice academy.

20 **Q.** I'm sorry, when did you take that?

21 **A.** Within the last month, I recently took one.

22 **Q.** And was there a particular method that was  
23 taught?

24 **A.** No, ma'am, it's just -- it was just to, you  
25 know, show videos of actual interviewing and interrogation

1       that -- case-documented interviews and things like that,  
2       just -- there's no exact science to the -- you know, it's  
3       just you got to work off the case and what you're given and,  
4       I mean, most of your interviews are based off physical  
5       evidence, you know, that you try to establish information  
6       from that suspect.

7           **Q.**       Okay. So, in this case, you talked about  
8       getting information from Officer Jenkins and Investigator  
9       Lambert?

10          **A.**       Yes, ma'am.

11          **Q.**       Okay, but you didn't actually see any reports,  
12       just it was oral information provided to you?

13          **A.**       That's correct.

14          **Q.**       And it was provided to you sometime the morning  
15       before you picked up Mr. Jumper?

16          **A.**       It was in the afternoon.

17          **Q.**       In the afternoon?

18          **A.**       Yeah, it wasn't in the morning.

19          **Q.**       Okay. So I take it it happened just before you  
20       were asked to pick him up, would that be correct?

21          **A.**       About an hour and a half or so prior to, yes,  
22       ma'am.

23          **Q.**       And, so, one of the things that you mentioned is  
24       that you get the information about the investigation, but  
25       then you also try to develop a rapport with the person

1       you're interviewing?

2           **A.**       Yes, ma'am.

3           **Q.**       What do you mean by that?

4           **A.**       Just get a little bit of information about  
5       themselves, you know, to try to make them feel at ease, be  
6       comfortable because, I mean, it is -- nobody likes having to  
7       be interviewed by the police, you know, and it's not a  
8       comfortable environment at times, but it's just to kind of  
9       like get them to try to relax and to be truthful about the  
10      situation and just to make it less intrusive as it can be.

11          **Q.**       What other methods have you used in addition to  
12      putting somebody at ease like that?

13          **A.**       Just getting to know them, ask them about their  
14      personal life, you know, interest, things that they are  
15      interested in, what they want to do, that kind of thing.

16          **Q.**       Okay. And when Mr. Jumper went into the room at  
17      5:27, he did not sign the waiver until 5:47, is that right?

18          **A.**       I don't know without looking at the documented  
19      time, but, I mean, that sounds right.

20          **Q.**       Okay.

21          **A.**       I mean, it's a short time because, like I said,  
22      he was in there in the interview room initially a little bit  
23      by himself prior to the officers coming in. And once we  
24      come inside the room, then some brief statements were made  
25      in which we told him we were reading his Miranda rights

1 prior to him being questioned.

2 Q. And I take it prior to your giving him Miranda,  
3 you didn't show him a copy of the arrest warrant or the  
4 criminal complaint, is that right?

5 A. No, we did not.

6 Q. Okay. And at some point, I understand it was  
7 you and Sergeant Iadonisi, but then -- and, I'm sorry, I  
8 can't remember her title, but Investigator Lambert came in?

9 A. Yes, ma'am.

10 Q. And, so, when you first brought Mr. Jumper in,  
11 did you converse with Investigator Lambert?

12 A. No, not at that time, no, ma'am, I did not. Now  
13 she was inside the investigators' office and she was  
14 observing, you know, the video while -- or the interview  
15 while it was being conducted.

16 Q. So she would have known what time you came in  
17 with Mr. Jumper?

18 A. I mean, once we brought him in, she would know,  
19 you know, inside the interview room.

20 Q. Was there anybody else in the office, not the  
21 interrogation room, but the investigators' room with her?

22 A. I want to -- I know -- I know at the end of the  
23 interview, Detective Larry Jenkins, who initially started  
24 the investigation, he does serve Mr. Jumper with the arrest  
25 warrants.

1           **Q.**       Uh-huh.

2           **A.**       And I don't know at the time if he was actually  
3 in there, but he was in the area or in the building.

4           **Q.**       So did you, Iadonisi, Lambert or Jenkins come up  
5 with a plan on how to interrogate Mr. Jumper once you got to  
6 the police headquarters?

7           **A.**       No, we didn't come up with a plan, it was just  
8 to ask him case-related questions to see what his side of  
9 the story was.

10          **Q.**       Okay. And at some point, sir, I notice in the  
11 video that officers, including you, went in and out of the  
12 room. What was the purpose of that?

13          **A.**       As far as me leaving?

14          **Q.**       Yes.

15          **A.**       It was -- it was an attempt to maybe set up some  
16 additional interviewing for Mr. Jumper.

17          **Q.**       What do you mean by that?

18          **A.**       Scheduling forensic-type interviewing.

19          **Q.**       Are you talking about a polygraph?

20          **A.**       Yes, ma'am.

21          **Q.**       And you had asked him if he was willing to take  
22 a polygraph at some point during the questioning, is that  
23 right?

24          **A.**       Yes, ma'am, I did.

25          **Q.**       And he willingly said he would?

1           **A.**       Yes, he did.

2           **Q.**       And, so, that's about the time that you left the  
3 room?

4           **A.**       Yes, ma'am.

5           **Q.**       And did you make plans to get a polygrapher in?

6           **A.**       Yes. I mean, I was the one to schedule that,  
7 yes.

8           **Q.**       Who did you contact in regards to that?

9           **A.**       I attempted to contact one of our local  
10 polygraphers that conducts those, but he didn't answer his  
11 phone at that time.

12          **Q.**       Did you just try that one time?

13          **A.**       Yes, ma'am.

14          **Q.**       And even though you came back and Mr. Jumper had  
15 asked about the polygrapher, you didn't try again to contact  
16 that polygrapher?

17          **A.**       No. Once -- I mean, like I said, once I stepped  
18 out, we continued the interview, you know, without trying to  
19 contact the polygrapher.

20          **Q.**       And I take it that was the only time during that  
21 entire interview that you contacted or tried to contact  
22 somebody to do a polygraph?

23          **A.**       Yes, ma'am.

24          **Q.**       How long were you gone, sir, when you tried to  
25 make the arrangements?



1           **A.**       Maybe I want to estimate like about five  
2 minutes, five, six minutes, somewhere in there.

3           **Q.**       Do you remember telling him pretty early in the  
4 interview that you weren't there to throw the book at him,  
5 you just wanted to know what happened?

6           **A.**       That's correct.

7           **Q.**       And that was your intent?

8           **A.**       Yes, I mean, I wanted to get the truth.

9           **Q.**       And you had said that the cousin had given, I  
10 guess, either you or Iadonisi an iPad.

11          **A.**       Yes, ma'am.

12          **Q.**       Did you take a look at that iPad while either  
13 one of you were interview Mr. Jumper?

14          **A.**       No, ma'am.

15          **Q.**       So there was no forensic information that you  
16 had gotten from that iPad?

17          **A.**       No, ma'am. There would be either consent to  
18 look at that iPad or a search warrant before we looked at  
19 that iPad.

20          **Q.**       Did you get consent to seize the iPad?

21          **A.**       Once -- once the interview was completed,  
22 Mr. Jumper was informed that his cell phone and the iPad was  
23 going to be seized.

24          **Q.**       Okay, but I'm talking about when you asked the  
25 cousin for the iPad.

1           **A.**       Uh-huh.

2           **Q.**       You didn't have a warrant at that time?

3           **A.**       No, the cousin freely give it to -- give  
4 Mr. Jumper's iPad.

5           **Q.**       You didn't take a look at it?

6           **A.**       No, ma'am.

7           **Q.**       Even though it was freely given to you?

8           **A.**       No, ma'am.

9           **Q.**       And you indicated that this was your first  
10 contact with Mr. Jumper?

11          **A.**       Yes, ma'am.

12          **Q.**       You had not seen him at the police station  
13 before?

14          **A.**       No, I don't recall, no.

15          **Q.**       And I take it that he was not familiar with the  
16 setup of the police station?

17          **A.**       I'm not sure if he had been in there with  
18 someone else.

19          **Q.**       Okay. And the review of the Miranda rights, how  
20 long did that take from the time it was presented to him to  
21 the time it was signed?

22          **A.**       I'm going to estimate maybe two, three minutes.

23          **Q.**       And you had said that Mr. Jumper was allowed a  
24 number of breaks. What do you mean by "breaks"?

25          **A.**       He was -- he was offered a number of times if he

1       needed to use the restroom. Now those number of times,  
2       Mr. Jumper said he was okay. I know at one point Detective  
3       Daniel Iadonisi brings him water, you know, so he has some  
4       water to drink. And then towards the later part of the  
5       interview, he did request to use the restroom and was taken  
6       to the restroom.

7           **Q.**       And that was the only time he was asked to go to  
8       the restroom?

9           **A.**       No, he was asked --

10          **Q.**       No, no, he asked to go to the restroom.

11          **A.**       Yes, yes.

12          **Q.**       And I think you said -- other than water, was  
13       any food provided to him?

14          **A.**       No, I don't think so, no.

15          **Q.**       And was he ever offered to leave?

16          **A.**       He wasn't -- no, he wasn't offered to leave, but  
17       I know -- I personally know that the door to the interview  
18       room was not locked, you know, that he could go out if he  
19       wanted to.

20          **Q.**       Did you ever tell him that he could go at any  
21       time?

22          **A.**       No, ma'am.

23          **Q.**       Did anybody ever tell him he could go at any  
24       time?

25          **A.**       I don't -- I'm not sure. I mean, I know

1 personally I did not tell him that.

2 Q. And, so, the videotape would show if somebody  
3 had?

4 A. Yes.

5 Q. And he never left, did he?

6 A. No, ma'am, he did not.

7 Q. And you indicated that you were wearing a  
8 sidearm. Did Sergeant Iadonisi wear a sidearm as well?

9 A. He should be. I mean, I don't -- I can't recall  
10 if he was at that time or not, but most everybody does wear  
11 sidearms.

12 Q. So, when you say "most everybody," that would  
13 also include Investigator Lambert?

14 A. Yes, ma'am.

15 Q. And you had said that, when you spoke to him  
16 initially, and I take it that was when you met him at his  
17 house, you referred -- you referenced his girlfriend, is  
18 that right?

19 A. He referenced his girlfriend.

20 Q. He referenced his girlfriend?

21 A. Yeah. I told him I needed to speak with him  
22 about some issues, you know, as far as the -- and he  
23 referred to his girlfriend, you know.

24 Q. And neither you nor Sergeant Iadonisi said, no,  
25 we want to talk about a minor child, is that right?

1           **A.**       I don't think we mentioned that at that time,  
2       no, ma'am.

3           **Q.**       And then you said that, when he got to the  
4       police station, he was the one that said it was because of  
5       the minor child, is that right?

6           **A.**       That's correct.

7           **Q.**       So that would be in the video?

8           **A.**       Yes, ma'am.

9           **Q.**       And besides you leaving to go get the  
10       polygrapher, did Investigator Lambert come in when you left?

11          **A.**       I think I had come back in. I tried to make  
12       contact and then I left again, and then Detective Lambert  
13       come in.

14          **Q.**       So, during the 3-hour period, you left twice?

15          **A.**       Uh-huh.

16          **Q.**       But you came back?

17          **A.**       Right.

18          **Q.**       And Investigator Lambert came in once and stayed  
19       for a while and then she left?

20          **A.**       Let's see, I come back three times.

21          **Q.**       Three times?

22          **A.**       Three times. Once was the -- to try to set up  
23       the polygrapher, I come back in and asked Mr. Jumper some  
24       additional questions and which I left and Detective Mary  
25       Lambert had come back in and was in the interview with

1 Detective Iadonisi for a time. And then she left and  
2 Detective Iadonisi began questioning or speaking with  
3 Mr. Jumper, and then I come back in after that.

4 Q. Okay. And then you indicated that it was  
5 around -- you were out when -- you were out of the room but  
6 were watching it in the next room. That's when he,  
7 Mr. Jumper, went from denying to, in your words, confessing?

8 A. I'm pretty sure that I -- from whenever  
9 Detective Mary Lambert comes into the interview room and she  
10 starts questioning Mr. Jumper, she tells Mr. Jumper, you  
11 know, that she will leave the room if he feels more  
12 comfortable speaking with a male subject than a female, and  
13 once Detective Mary Lambert left the interview room is  
14 whenever Mr. Jumper starts confessing about the alleged  
15 incident.

16 Q. What was the purpose of Investigator Lambert  
17 coming in?

18 A. Just as far as, like I said, myself, this was  
19 kind of like new. I don't do a lot of child abuse-type  
20 crimes. She has a little bit more experience, she's been  
21 there years, and she come in to try to, you know, get -- to  
22 speak with Mr. Jumper.

23 Q. So, if she's the one with the experience, why  
24 did she leave when you started talking about the alleged  
25 child abuse?

1 MR. EASON: Objection, calls for speculation.

2 That may be best asked of Detective Lambert.

3 THE COURT: Overruled.

4 THE WITNESS: I don't know. You'd have to ask  
5 her about that because I really don't -- I don't know.

6 BY MS. SISON:

7 Q. Well, I guess my question is this: Would  
8 people -- with the officers coming in and out, was that part  
9 of the interrogation plan?

10 A. No, ma'am, it wasn't.

11 Q. Now did Sergeant Iadonisi leave the room at any  
12 time?

13 A. I want to say that we had stepped out a couple  
14 of times from the interview. Like I said, there are -- in  
15 the interview, Mr. Jumper, there's times through that  
16 interview where he's in the room by himself, you know, for a  
17 little bit of time and the detectives would come back in and  
18 start speaking with Mr. Jumper again.

19 Q. And what was the purpose of leaving him in the  
20 room by himself?

21 A. Just to -- just to see where else we could go  
22 with the interview as far as questions that were missing,  
23 you know, to speak about, to try to ask to get the whole  
24 truth about the incident. Just get as much information as  
25 we can about this incident.

1           **Q.**       So, every time he was left alone, you,  
2           Investigator Lambert, Sergeant Iadonisi and Officer Jenkins  
3           would get together and discuss where to go from there?

4           **A.**       I don't know who all was there at that time, but  
5           I know that, yes, it was just to speak about what else can  
6           we ask at that time.

7           **Q.**       Okay. And this also happened during the time  
8           that he kept denying all the allegations, is that right?

9           **A.**       I know I had stepped out while he was denying  
10          these allegations. And like I said, I went out to try to  
11          set up a polygraph for Mr. Jumper. And -- but up until the  
12          point where Detective Mary Lambert had walked out of the  
13          interview room, he had denied the allegations up to that  
14          point, yes, ma'am.

15          **Q.**       Okay. And, sir, you had testified that during  
16          direct that you had made no promises as to what would  
17          happen. Am I characterizing that correctly?

18          **A.**       No, I didn't make any promises, no, ma'am.

19          **Q.**       So you never made any promise?

20          **A.**       No, ma'am.

21          **Q.**       And, so, let's just be clear. What do you mean  
22          by a promise?

23          **A.**       I mean, just anything as far as telling  
24          Mr. Jumper you're going to walk out of here today, I promise  
25          you're not going to be charged with anything, anything like



1       that.

2           **Q.**       Okay. So that's what a promise is to you, that  
3       no promises that he would walk out and that no charges would  
4       be levied against him?

5           **A.**       Right.

6           **Q.**       Okay. And then also you said that you or  
7       anybody else threatened him, is that right?

8           **A.**       Not that I'm aware of.

9           **Q.**       Okay.

10          **A.**       He wasn't threatened while I was in the  
11       interview room with him, no.

12          **Q.**       So we're clear, what do you mean by a threat?

13          **A.**       Threatened him or like with if you don't -- if  
14       you don't confess to this, that, you know, we're going to do  
15       bodily harm or, you know, force him into a confession.

16          **Q.**       So a threat means something done to him  
17       physically?

18          **A.**       Yeah.

19          **Q.**       And that's what a threat means to you?

20          **A.**       Well, physically, just make verbal threats, you  
21       know, that kind of thing.

22          **Q.**       Okay. All right. So -- and, so, during the  
23       questioning, sir, it looked to me that it was kind of even  
24       between you, mainly, and Sergeant Iadonisi. Would that be a  
25       fair characterization, it was back and forth between the two

1 of you?

2 A. Yes.

3 Q. And do you remember talking to Mr. Jumper about  
4 maybe accidentally touching the minor child?

5 A. I think so.

6 Q. So you don't dispute that you might have asked  
7 him if he had accidentally touched the child?

8 A. Yes.

9 Q. And do you ever make references to perhaps it  
10 was an innocent touch?

11 A. Yes.

12 Q. Do you remember saying that you didn't think  
13 that he was taking advantage of a kid?

14 A. I don't remember saying that.

15 Q. Okay. And do you remember talking about that  
16 somebody can misconstrue a touch?

17 A. Yes.

18 Q. And do you remember at some point that you  
19 mentioned that the mother in this case might have had a part  
20 in this?

21 A. I do.

22 Q. Now Mr. Eason had asked you if there were any  
23 indications of duress. Do you remember that question?

24 A. What's that again, I'm sorry?

25 Q. If there was any indication of duress during the

1 interview --

2 A. Yes.

3 Q. -- the interrogation.

4 Now you understand -- well, how do you  
5 understand what duress means?

6 A. Like he's very uncomfortable, that's the way I'd  
7 take it as, you know, as he didn't want to be there.

8 Q. And, so, how would that be shown, is it voice,  
9 action?

10 A. There are actions as well as their voice, you  
11 know. They could just simply say I don't want to be here,  
12 you know, I want to leave, that kind of thing.

13 Q. That's how you would interpret somebody under  
14 duress?

15 A. Right.

16 Q. And I just want to make sure, the video was not  
17 stopped at any point?

18 A. No, ma'am.

19 Q. So what we see is what happened?

20 A. Right.

21 Q. And who had turned it off?

22 A. I'm not sure on who turned off the video.

23 Q. And what happened after it was turned off?

24 A. Once -- at the end of the interview, you can see  
25 Detective Larry Jenkins come in and serve Mr. Jumper with

1 the arrest warrants. He takes Mr. Jumper out into the  
2 hallway in which he's trying to get the detention officer, I  
3 think, at that time. And the detention officers come down  
4 and take Mr. Jumper up to the detention center or before the  
5 magistrate.

6 Q. Now, sir, I've had some experience with Cherokee  
7 Police Department in other cases and I've seen statements  
8 written by people, witnesses and also suspects.

9 A. Yes, ma'am.

10 Q. Was one written in this case?

11 A. He was given the opportunity to write a  
12 statement by, I think, Detective Daniel Iadonisi and he  
13 didn't do that.

14 Q. Actually, wasn't he asked to write a letter of  
15 apology?

16 A. I think so, yes, ma'am.

17 Q. So he wasn't asked to write a statement.

18 A. Well, I mean, it's a statement, an apology or a  
19 letter, it would be a statement.

20 Q. And he didn't write it?

21 A. No, ma'am.

22 Q. I take it that he was given a pen and a piece of  
23 paper to do that?

24 A. Yes, I'm sure he was. I know he was given  
25 paper, yes, ma'am.

1           **Q.**       And he was left alone to do that?

2           **A.**       Yes.

3           **Q.**       For approximately how many minutes?

4           **A.**       I'm not sure, it was reflected on the video.

5           **Q.**       Okay. And, sir, as I reviewed the video, what  
6 were the specifics of the crime that was committed? I'm  
7 talking his version of how the crime was committed. Can you  
8 tell us what it was?

9           **A.**       His version?

10          **Q.**       Yes.

11          **A.**       Like Mr. Jumper's?

12          **Q.**       What did he say -- what did he say happened?

13          **A.**       At what time?

14          **Q.**       Give us one incident that he described it and  
15 I'm talking about he described it, not that he was told what  
16 happened.

17          **A.**       He described what he had done to the minor  
18 child.

19          **Q.**       Okay. And that was not through words that you  
20 or Sergeant Iadonisi or Investigator Lambert gave him?

21          **A.**       No, I didn't give him anything. I mean, he  
22 freely and voluntarily made these statements he said.

23          **Q.**       And it's your opinion that the statements that  
24 he made were specific as to the crime that was committed, is  
25 that right?

1           **A.**       Yes, ma'am.

2           **Q.**       So, for example, we would know what hand was  
3 used during this alleged crime?

4           **A.**       Yes, ma'am.

5           **Q.**       And which finger or fingers were used during  
6 this crime?

7           **A.**       I don't know fingers specific, but finger, yeah.

8           **Q.**       You don't know what finger specific, is that  
9 because you don't remember or because that was not part of  
10 the statement?

11          **A.**       That wasn't whenever I was in the interview  
12 room.

13          **Q.**       So is it your understanding that somebody else  
14 got that information?

15          **A.**       Yes, ma'am.

16          **Q.**       But you yourself didn't get that information, is  
17 that right?

18          **A.**       That's correct.

19          **Q.**       Now, sir, again, my experience with Cherokee  
20 Police Department is that you write police reports regarding  
21 arrest or interview of a suspect or witness, is that right?

22          **A.**       Yes, ma'am.

23          **Q.**       That's typically what happens?

24          **A.**       Yes, ma'am.

25          **Q.**       And I take it that's because you need to recall

1        what happened in case we have to go to trial or you're  
2        questioned like today, is that right?

3            **A.**        That's correct.

4            **Q.**        And in this case, you didn't write a police  
5        report regarding the arrest and the interrogation of  
6        Mr. Jumper, did you?

7            **A.**        I didn't write an arrest report because I didn't  
8        arrest him. And as far as my involvement in this case was  
9        picking Mr. Jumper up and then what's on the video as far as  
10       the interview. That's all -- and it's documented through  
11       transcription of the video and audio.

12          **Q.**        And, so, even though you didn't arrest him and  
13       you had the video, you didn't feel that you needed to write  
14       a police report?

15          **A.**        My actions were documented as far as what I said  
16       on audio and video and, like I said, we have the interviews  
17       transcribed.

18          **Q.**        You had the video transcribed, sir?

19          **A.**        The video, yes, ma'am, it was transcribed.

20          **Q.**        Do you know by whom?

21          **A.**        Asheville Reporting.

22          **Q.**        Did you do that or did our office do that?

23          **A.**        We do that, our department does that. I --

24          **Q.**        And you provided that information to the  
25       Government?

1           **A.**       As far as the transcription?

2           **Q.**       Yes.

3           **A.**       Yes, the transcription is there.

4           **Q.**       Do you know when you provided that to the  
5 Government?

6           **A.**       I don't. I mean, I'm not the case agent on this  
7 case.

8           **Q.**       And, so, you didn't write a report regarding the  
9 arrest and the interrogation. Do you know if anybody else  
10 did, either Sergeant Iadonisi or Officer Jenkins or  
11 Investigator Lambert?

12          **A.**       I do not know.

13          **Q.**       And, so, when you prepared for testimony today,  
14 I take it that you didn't have any reports to refer to  
15 regarding that?

16          **A.**       I referred to the video and the transcription of  
17 the interview.

18          **Q.**       Okay. And did you discuss this case at all, the  
19 suppression hearing, with any of the other people that were  
20 present in the courtroom today?

21          **A.**       Right now?

22          **Q.**       No, with the other --

23          **A.**       Yes, I spoke with Justin Eason and Detective  
24 Mary Lambert and Detective Daniel Iadonisi.

25          **Q.**       And that was to prepare for this?



1           **A.**       Yes, ma'am.

2           **Q.**       How long did that take, sir?

3           **A.**       Ourselves, probably about an hour and a half.

4           **Q.**       And --

5           **A.**       I do my own, I do my own preparation. I mean, I  
6 don't necessarily do it with all the investigators because I  
7 like to be prepared whenever I come to court.

8           **Q.**       And by that, you mean that you reviewed the  
9 video again?

10          **A.**       Yes, ma'am.

11          **Q.**       And looked at the transcript?

12          **A.**       Yes, ma'am.

13                   MS. SISON: Thank you, sir.

14                   I have no more questions, your Honor.

15                   THE COURT: Any redirect by Government?

16                   MR. EASON: Very briefly, your Honor.

17                               REDIRECT EXAMINATION

18           BY MR. EASON:

19           **Q.**       In the past, the Cherokee Indian Police  
20 Department has submitted interviews to be transcribed, is  
21 that right?

22           **A.**       That's correct.

23           **Q.**       Do you know if that's done in every case or in  
24 just certain cases?

25           **A.**       Just certain cases.

1           **Q.**       Do you know personally if that was the case in  
2 this case or not?

3           **A.**       I don't know as far as personally if that's the  
4 case.

5           **Q.**       But you do know that the transcript was  
6 prepared?

7           **A.**       That's correct.

8           **Q.**       And you reviewed that transcript?

9           **A.**       Yes, sir.

10           MR. EASON: Those would be my questions.

11           THE COURT: All right, Officer. Thank you. You  
12 may step down.

13           Mr. Eason, you can call your next witness.

14           MR. EASON: I apologize, I was wildly optimistic  
15 by that 11:00.

16           The Government would call Mary Lambert.

17 THEREUPON:

18                       MARY LAMBERT

19 called as a witness on behalf of the Government herein, duly  
20 sworn and responding "I do," was examined and testified as  
21 follows:

22           THE COURT: You may proceed.

23           MR. EASON: Thank you, your Honor.  
24  
25

## DIRECT EXAMINATION

BY MR. EASON:

**Q.** If you would please state your name for the record.

**A.** Mary Lambert.

**Q.** And how is that spelled just for our court reporter?

**A.** M-A-R-Y L-A-M-B-E-R-T.

**Q.** And, Ms. Lambert, how are you employed?

**A.** With the Cherokee Indian Police Department Investigations Division.

**Q.** What's your title currently?

**A.** Interim lieutenant over investigations.

**Q.** Were you acting in that capacity on August 29, 2018, the date in question of this hearing?

**A.** Yes, sir.

**Q.** Could you give us a little bit of the background that you have in law enforcement?

**A.** I have -- this month, will be 25 years in law enforcement.

**Q.** How did you become aware of this case?

**A.** Through Larry Jenkins, the detective who used to be with the child victims unit.

**Q.** And when he brought this case to your attention, what did you do?

1           **A.**       I asked about the case and spoke with Detective  
2 Cable and Detective Iadonisi, and had them go and go ask to  
3 speak with Mr. Jumper and bring him in to do an interview.

4           **Q.**       Were you present for when they made contact with  
5 him?

6           **A.**       No, I was not if you're referring to Mr. Jumper.

7           **Q.**       Yes, sorry. You were not present when they made  
8 contact with Mr. Jumper?

9           **A.**       No, I was not.

10          **Q.**       Were you present at the police department when  
11 Mr. Jumper was brought in for his interview?

12          **A.**       I was in the investigation room when Mr. Jumper  
13 was brought into the interview room.

14          **Q.**       Talk a little bit about the interview room. If  
15 you could just sort of give the layout of the interview  
16 room, basically.

17          **A.**       You come into the police department, you'll go  
18 down this long hall and you'll pass by four doors, then an  
19 opening that goes into investigations and the restrooms,  
20 very next door is the interview room and it's on to the  
21 right. As you go into the interview room, I don't know the  
22 footage of the interview room.

23          **Q.**       Can you give a rough guess?

24          **A.**       Approximately 6 by 10, maybe, I don't know, I've  
25 never measured it. Once you go in, there is three chairs,

1 the first chair is the -- against the wall, and to the left,  
2 there's a small table in between the three chairs, there's a  
3 chair in the center of the table and then two chairs at each  
4 end and the table is against the wall.

5 Q. So three chairs, one table?

6 A. Yes.

7 Q. Where was Mr. Jumper seated in the interview  
8 room for that interview?

9 A. Just as you come in the door, the first chair.

10 Q. So it's the closest chair to the door?

11 A. Yes, sir.

12 Q. Is that door locked?

13 A. Not to my knowledge, no, sir.

14 Q. Was the Defendant in handcuffs when you observed  
15 him in the interview room?

16 A. No, sir.

17 Q. Did he have -- how was he dressed, if you  
18 remember?

19 A. A T-shirt that didn't have any sleeves on it and  
20 a pair of shorts. I don't recall shoes.

21 Q. Was that attire appropriate for the weather back  
22 in August of 2018, August 29, 2018?

23 A. It was August. I don't recall what the weather  
24 was that day. It's been almost a year.

25 Q. Sure. To your knowledge, he had been placed

1 under arrest at that point?

2 **A.** Not to my knowledge.

3 **Q.** Were there any warrants for his arrest active at  
4 that time?

5 **A.** I don't recall.

6 **Q.** Had Detective Jenkins drawn warrants prior to  
7 him being brought into the interview, do you know?

8 **A.** He was -- he spoke to me about starting the  
9 warrants. I don't know when he completed the warrants.

10 **Q.** Okay. Do you know whether or not the Defendant  
11 was issued Miranda warnings when he was brought in for the  
12 interview?

13 **A.** When he was brought into the interview room, he  
14 was placed in the interview room and Detective Cable and  
15 Detective Iadonisi came in, we were discussing who was going  
16 to actually interview Mr. Jumper. And Detective Iadonisi  
17 and Detective Cable went into the interview room and I was  
18 looking at the monitor when they read him his rights from  
19 the Miranda form that we have.

20 **Q.** Did you observe anything from the Defendant that  
21 made it look like he was unclear or didn't understand those  
22 rights as they were being gone over?

23 **A.** From what I observed from the monitor?

24 **Q.** Yes.

25 **A.** No.

1           **Q.**       Did you have an opportunity to observe sort of  
2       the interactions between the detectives and the suspect over  
3       the monitor?

4           **A.**       The interview, yes.

5           **Q.**       Was he appropriately responding to their  
6       questions, did he appear to understand the questions and  
7       understand them?

8           **A.**       Yes.

9           **Q.**       Can you talk about how he was behaving during  
10      the interview that you were observing?

11          **A.**       Talking, like we are talking now.

12          **Q.**       Did he appear to be upset or emotional or  
13      anything like that?

14          **A.**       Just the way he's sitting now.

15          **Q.**       There was some period of time when Detective  
16      Cable left and you came in. Can you explain why that was?

17          **A.**       Detective Cable and Detective Iadonisi both came  
18      out of the interview room, I believe, and myself and  
19      Detective Cable didn't know what else to -- the kind of  
20      questions. I had to -- got the folder, the report.

21          **Q.**       Uh-huh.

22          **A.**       And that had the CME and the report in it and  
23      things like that, and Detective Iadonisi actually took over  
24      the interview at that time and I went with him back into the  
25      interview room.

1           **Q.**       So, prior to that, you guys hadn't had an  
2 opportunity to review any of the reports at that point?

3           **A.**       I didn't review the reports, no.

4           **Q.**       Detective Iadonisi did?

5           **A.**       I don't know. I don't know.

6           **Q.**       Okay. Where did you get those reports?

7           **A.**       From Larry Jenkins.

8           **Q.**       About what time, if you can say, was it -- did  
9 you get those reports from Detective Jenkins prior to  
10 sending Detectives Cable and Iadonisi to go get Mr. Jumper?

11          **A.**       Not that I recall.

12          **Q.**       Did you get them after Mr. Jumper was returned  
13 to the police department?

14          **A.**       Yes.

15          **Q.**       So -- okay. And you never had a real -- would  
16 you say that you had a good opportunity to review those  
17 reports and get the facts all straight?

18          **A.**       Not the reports, no, I was reading the reports  
19 while I was in the interview room.

20          **Q.**       So most of your perception from the case came  
21 where, then, where did it come from?

22          **A.**       Larry Jenkins briefed us shortly on it and I  
23 basically told Detective Cable that he would be doing the  
24 interview.

25          **Q.**       Did you guys -- did the four of you prepare any



1 specific plan or strategy for this interview, did you have  
2 any set operational tactics, I guess?

3 A. No, sir.

4 Q. After a certain point, you went back in to  
5 assist Detective Iadonisi, is that correct?

6 A. Yes.

7 Q. And you were speaking with Mr. Jumper, is that  
8 right?

9 A. Yes.

10 Q. Do you recall how Mr. Jumper was behaving while  
11 you were speaking with him?

12 A. Normal just conversation.

13 Q. To you, did he appear to be in extreme  
14 discomfort or duress?

15 A. He was just talking to me and I was talking to  
16 him, just like we're talking now.

17 Q. At a certain point, you decided to leave the  
18 interrogation room, is that correct?

19 A. Yes, I did.

20 Q. And why did you leave the interview room at that  
21 point?

22 A. To go to the restroom.

23 Q. You didn't return, did you?

24 A. No, I did not.

25 Q. Was there any particular reason that you decided

1 to leave and not come back to the interview?

2 **A.** They were already talking again, I didn't want  
3 to interrupt.

4 **Q.** Prior to leaving the interview room, you told  
5 the Defendant, "I hope you do the right thing," is that  
6 correct?

7 **A.** Yes, I did.

8 **Q.** What did you mean by "I hope you do the right  
9 thing"?

10 **A.** It's always better to get everything out in the  
11 open about what happened, your way, tell it your way,  
12 explain it to us, what, you know, your side of the story is  
13 so that we can get your perception of what happened, compare  
14 it to what's already been said and evaluate the two.

15 **Q.** So that was your intention in telling him to do  
16 the right thing?

17 **A.** Yes.

18 **Q.** You wanted him to get his side the story out?

19 **A.** Yes, sir.

20 **Q.** While you were in the interview room with the  
21 Defendant, did the Defendant ever request an attorney?

22 **A.** No, sir.

23 **Q.** While you were in the interview room with the  
24 Defendant, did the Defendant ever ask to stop the interview  
25 or to leave the interview process?

1           **A.**       No, sir.

2           **Q.**       Did the Defendant ever mention to you that he  
3 felt threatened at any time?

4           **A.**       No, sir.

5           **Q.**       When you were speaking with the Defendant, do  
6 you know if you were wearing your sidearm?

7           **A.**       Yes, sir.

8           **Q.**       Did you ever draw your sidearm?

9           **A.**       No, sir.

10          **Q.**       Did you ever point your sidearm at anyone?

11          **A.**       No, sir.

12          **Q.**       Did you ever draw attention to your sidearm?

13          **A.**       No, sir.

14          **Q.**       Did the Defendant ever comment on your sidearm?

15          **A.**       No, sir.

16          **Q.**       To your knowledge, did the Defendant have any  
17 personal items with him when he was in the interview room?

18          **A.**       He had his cell phone.

19          **Q.**       Did the Defendant ever tell you or anyone else  
20 that you're aware of about any medical or psychological  
21 illnesses or infirmities that would make it hard for him to  
22 understand what was going on?

23          **A.**       No, sir.

24          **Q.**       Did the Defendant ever appear to you to be  
25 confused as to what the subject of the investigation was or

1 as to the nature of what was being investigated?

2 A. No, sir.

3 Q. Did you watch the entirety of the interview when  
4 you weren't present on the monitors or were you doing other  
5 things as well?

6 A. I was doing other things as well.

7 Q. Were you able to keep up with the interview as  
8 it progressed on the monitor?

9 A. Can you explain?

10 Q. Were you trying to keep up with what was being  
11 said or done in the interview room during the time period of  
12 the interview?

13 A. I was coming in and out. I had actually went to  
14 the restroom a couple times, I went to get a coffee a couple  
15 times.

16 Q. During what you were present for and what you  
17 observed, did you ever hear anyone threaten the Defendant  
18 with anything?

19 A. No, sir.

20 Q. Did you hear anyone threaten the Defendant's  
21 family or his girlfriend or his girlfriend's family?

22 A. No, sir.

23 Q. Did you ever hear anyone raise their voice to  
24 the Defendant?

25 A. No, sir.

1           **Q.**       Did you or anyone -- did you ever physically  
2 touch the Defendant during the course of this interview?

3           **A.**       I don't recall.

4           **Q.**       If you did, would it be on the video?

5           **A.**       Yes.

6           **Q.**       Did you observe anybody else make physical  
7 touch, contact with the Defendant of any kind for any  
8 reason?

9           **A.**       I don't recall.

10          **Q.**       If there was, would it be on video?

11          **A.**       Yes, sir.

12          **Q.**       Did you make any promises to the Defendant  
13 regarding anything about the case?

14          **A.**       No, sir.

15          **Q.**       Did you observe anyone else make any explicit  
16 promises to the Defendant about the case?

17          **A.**       No, sir.

18          **Q.**       Do you know if the Defendant was placed under  
19 arrest after the interview was concluded?

20          **A.**       Yes, sir.

21          **Q.**       Was the Defendant ever left alone in the  
22 interview room while y'all officers conversed about the case  
23 or reviewed files, made notes, anything like that?

24          **A.**       Yes.

25          **Q.**       During that time period, was -- he still had

1 access to his phone?

2 **A.** Yes, sir.

3 MR. EASON: If I may have just a moment, your  
4 Honor.

5 THE COURT: You may.

6 MR. EASON: Those would be my questions for this  
7 witness.

8 THE COURT: Cross examination by the Defense.

9 MS. SISON: Thank you.

10 CROSS EXAMINATION

11 BY MS. SISON:

12 **Q.** Ma'am, should I call you investigator or  
13 lieutenant? I'm sorry, I want to get the right name.

14 **A.** You can call me Mary, I don't care.

15 **Q.** Well, I prefer to call you by your last name.  
16 Investigator Lambert, would that be fine?

17 **A.** Detective Lambert is probably -- easier for me  
18 to remember.

19 **Q.** Detective Lambert, you said that you had been  
20 working for 25 years as a law enforcement official, is that  
21 right?

22 **A.** Yes, ma'am.

23 **Q.** And was that all with the Cherokee Indian Police  
24 Department or have you worked for other places?

25 **A.** I worked for Buncombe County Sheriff's

1 Department from August 17th of '94 until January 17th of  
2 '96.

3 Q. And after '96?

4 A. January of '96 was my first day at Cherokee  
5 Indian Police Department, actually, night shift, worked day  
6 shift and night shift, and then took -- I've been with  
7 Cherokee Indian Police Department.

8 Q. And, so, at the time that this investigation was  
9 taking place, you were also then still the interim  
10 lieutenant, is that right?

11 A. I become the interim lieutenant in August 13th  
12 of 2018.

13 Q. And that's the position you hold now?

14 A. Yes.

15 Q. Now you said that you became involved because of  
16 an investigation by the Department of Health. Is that like  
17 DSS for the tribe?

18 A. No, I became involved because Detective Larry  
19 Jenkins explained to me that there was a case with  
20 Mr. Jenkins (sic) and the allegations. And I don't recall  
21 whether the CME was that day or a day or two before or he  
22 had went to the CME and came back and explained to me about  
23 the case.

24 Q. And, so, that might have been a couple days  
25 before the interrogation of Mr. Jumper?

1           **A.**       I know it was that day.

2           **Q.**       So sometime in the morning, I take it?

3           **A.**       Probably about lunchtime.

4           **Q.**       Okay. And it was Detective -- or, I'm sorry,  
5 Investigator Jenkins that told you about it?

6           **A.**       Yes.

7           **Q.**       And how did he find out about it, if you know?

8           **A.**       I do not know.

9           **Q.**       And, so, at that point, you didn't have any kind  
10 of police reports when you were first told about it, is that  
11 right?

12          **A.**       No, we were going through a transition where the  
13 child victims unit was coming under the investigations unit  
14 because it had just lost its lieutenant.

15          **Q.**       Okay.

16          **A.**       Or before, prior to.

17          **Q.**       And that's the person you referred to as  
18 somebody who had worked there before?

19          **A.**       Yes.

20          **Q.**       All right. And, so, at that point, do you know  
21 if Investigator Jenkins had any materials like DHS reports  
22 or medical reports, anything like that?

23          **A.**       I do not know.

24          **Q.**       And, so, when did you actually get your hands on  
25 the reports?



1           **A.**       Before I went into the interview.

2           **Q.**       Okay. So, when you say before you went to the  
3 interview, are you talking when Mr. Jumper was already in  
4 the room?

5           **A.**       Yes.

6           **Q.**       And I take it that you were the one who sent  
7 Iadonisi and Cable to the location where Mr. Jumper was, is  
8 that right?

9           **A.**       Yes.

10          **Q.**       And did you give them any information about the  
11 case?

12          **A.**       The four of us were speaking about the case,  
13 Cable, Iadonisi, myself and Mr. Jenkins.

14          **Q.**       This is prior to them going to Robbinsville, is  
15 that right?

16          **A.**       Yes.

17          **Q.**       So -- and who is doing the briefing, was it you  
18 to the two who went out there or was it Lieutenant Jenkins  
19 -- I'm sorry, Investigator Jenkins?

20          **A.**       Investigator Jenkins.

21          **Q.**       Okay. And, so, at that point, you were actually  
22 getting more information as you were listening to him?

23          **A.**       Yes.

24          **Q.**       And, so, that was the second time that he  
25 provided this information, the first time without the other

1 two, and then the second time, you and the other two  
2 investigators, is that right?

3 A. I don't recall if it was just the one specific  
4 time or whether there was two encounters.

5 Q. And, so, at that point when the four of you were  
6 talking about it, did you come up with any plan as to what  
7 was going to happen that day regarding the investigation?

8 A. I told Detective Cable that he would be doing  
9 the interview and Detective Iadonisi was going to assist  
10 him.

11 Q. And was that after Mr. Jumper was already in  
12 custody or before?

13 A. That was before he was in custody. He wasn't in  
14 custody until after he was interviewed.

15 Q. After he was put in the interview room, that was  
16 still the plan, is that right, with Cable doing the  
17 interviewing and Investigator Iadonisi being the backup, is  
18 that correct?

19 A. I don't understand your question.

20 Q. I guess I understood you to mean that Mr. Cable  
21 was going to do most of the talking and that Iadonisi was  
22 going to back him up?

23 A. Yes.

24 Q. Is that correct or did I get that wrong?

25 A. No.

1           Q.       And, so, at some point, though, you became  
2 involved. Is there a reason why you became involved?

3           A.       Because Mr. Cable didn't want -- Mr. Cable was  
4 having an issue or could not -- he didn't know what else to  
5 ask for questions during the interview.

6           Q.       And that was because Mr. Jumper kept denying  
7 that he'd done anything wrong, is that right?

8           A.       I don't know if that was the issue or Mr. Cable  
9 just didn't know what else to ask.

10          Q.       Is that what Mr. Cable imparted to you when he  
11 went back into the investigator room?

12          A.       That he didn't know what else to ask.

13          Q.       And you had been watching the interview during  
14 that time, is that right?

15          A.       Most -- part of it, yes.

16          Q.       Okay. Do you recall Mr. Cable saying that he  
17 was going to ask to get a polygrapher, do you remember that  
18 part?

19          A.       Yes.

20          Q.       And then that's when he went into the room, the  
21 investigators' room?

22          A.       Yes.

23          Q.       And that's when he told you that he didn't know  
24 what else to ask?

25          A.       Well, and we started making phone calls to -- in

1 reference to getting an interview at that time.

2 Q. And you couldn't find someone to do the  
3 polygraph?

4 A. I don't know if he actually reached out to  
5 anybody or got ahold of anybody that night.

6 Q. Okay. And, so, when he -- and then Mr. Cable  
7 did come back and then you went into the interrogation room,  
8 is that right?

9 A. Me and Detective Iadonisi went into the room,  
10 yes.

11 Q. Did Detective Iadonisi ever come out after  
12 Mr. Cable went into the interview room or was he in the  
13 interrogation the entire time?

14 A. No, Mr. Jumper was placed in the interview room.  
15 Detective Iadonisi and Detective Cable went into the  
16 interview room. Detective Cable came out of the interview  
17 room and it was Detective Iadonisi and Mr. Jumper in there  
18 by themselves. At some point in time, both detectives came  
19 out of the room and Mr. Jumper was in the room by himself.  
20 When me and Detective Iadonisi went into the room, it was  
21 just me and Detective Iadonisi, there was no one else in the  
22 room with Mr. Jumper, and that's when Officer Iadonisi or  
23 Detective Iadonisi gave Mr. Jumper a bottle of water, he sit  
24 down in the chair in the middle and I sat down on the chair  
25 on the other side of the room.

1           Q.       And that was the only time you went into the  
2 room, is that right?

3           A.       Yes.

4           Q.       How long would you say you were in the room?

5           A.       20, 25 minutes.

6           Q.       And what was your role at that time?

7           A.       I was just -- I was reading the report and  
8 asking questions.

9           Q.       Okay. And did Investigator Iadonisi or  
10 Mr. Cable have access to those reports that you were reading  
11 at that time?

12          A.       Detective Iadonisi, I believe, looked at the  
13 reports the same time I did.

14          Q.       So I take it the two of you were close to each  
15 other so that you could pass the report back and forth?

16          A.       The table is maybe smaller than this counter up  
17 here as far as width wise, and then wide, it may be 3, 4,  
18 so --

19          Q.       I think one of the questions you were asked on  
20 direct is that you had said prior to your leaving, "I hope  
21 you do the right thing," is that right?

22          A.       Yes.

23          Q.       Do you remember also saying right before then,  
24 saying that you would be right back, that you would be  
25 leaving to go to the bathroom, but you'd be right back?

1           **A.**       Yes.

2           **Q.**       But you never came back?

3           **A.**       No.

4           **Q.**       Was that intentional or is that part of the  
5 plan?

6           **A.**       No.

7           **Q.**       No, it wasn't part of the plan or it wasn't  
8 intentional?

9           **A.**       When I walk in the room --

10                   MR. EASON:  Objection, your Honor.  That's a  
11 compound question.

12                   MS. SISON:  I can ask simply, your Honor.

13                   THE COURT:  I'll sustain that objection.

14 BY MS. SISON:

15           **Q.**       When you said, "I'll be right back" and you  
16 didn't come back, did you mean to not come back?

17           **A.**       Did I mean not to come back?

18           **Q.**       Yes.

19           **A.**       No.  I don't know whether I was going to be  
20 coming back or not.  I mean --

21           **Q.**       So, at that point, you thought you were coming  
22 back?

23           **A.**       It's possible, yes.

24           **Q.**       And, Detective Lambert, do you remember talking  
25 specifics to Mr. Jumper regarding a finger versus a penis?

1           **A.**       Yes.

2           **Q.**       And then you had said to him at some point  
3 during the 20, 25 minutes you were there is that "It's just  
4 a finger, okay, compared to an actual penis." Do you  
5 remember saying that?

6           **A.**       Yes, because, prior to that, Detective Iadonisi  
7 stated it was a digital penetration. I wanted him to  
8 understand the difference between a finger or a penis would  
9 be digital penetration is a finger and not the --

10          **Q.**       Okay. And then -- but you also said, "I  
11 understand. I guess maybe that wasn't something that  
12 happened." And you meant that there wasn't any penile  
13 penetration, is that right?

14          **A.**       According to the CME report.

15          **Q.**       And that was something that you had been aware  
16 of prior to reading the report?

17          **A.**       No, I read the report.

18          **Q.**       Okay. And then you came in with that report, is  
19 that right?

20          **A.**       Yes, into the interview room.

21          **Q.**       And, so, as you were reading that report, you  
22 were telling Mr. Jumper that something did happen?

23          **A.**       According to the allegations.

24          **Q.**       And that's in response to him denying anything  
25 ever happened, is that right?

1           **A.**       He did deny at that point.

2           **Q.**       He kept denying up to that point?

3           **A.**       Yes.

4           **Q.**       And then you said, "It happened, all right. I'm  
5 not going to beat around the bush." Do you remember saying  
6 that?

7           **A.**       Uh-huh.

8           **Q.**       Is that a yes?

9           **A.**       Yes, ma'am, sorry.

10          **Q.**       And that you said, "It wasn't your penis, but it  
11 was your finger and it did happen, okay." Do you remember  
12 saying that?

13          **A.**       Yes, ma'am.

14          **Q.**       And then at some point toward the end, right  
15 before you left, you did say, "Would you prefer me to step  
16 out of the room and you just go ahead and tell Danny what  
17 happened?" Is that right, do you remember saying that?

18          **A.**       I don't remember the exact words.

19          **Q.**       But you did offer to step out?

20          **A.**       Yes, I did.

21          **Q.**       And what was -- what was the reason for that?

22          **A.**       Sometimes males feel more comfortable without  
23 females being in the room present when they speak about  
24 sexual acts.

25          **Q.**       Now you indicated that the door was not locked



1       when Mr. Jumper was brought into the room, is that right?

2           **A.**       Correct.

3           **Q.**       And is that the kind of door you can lock from  
4       the outside instead of the inside?

5           **A.**       I don't know that that door has a lock on it.

6           **Q.**       So he could have just gotten up and left?

7           **A.**       Yes, ma'am.

8           **Q.**       And what would happen if he had just gotten up  
9       and left?

10          **A.**       He --

11               MR. EASON:  Objection, calls for speculation.

12               THE COURT:  Overruled.

13               THE WITNESS:  He would go out into the hallway.

14       BY MS. SISON:

15          **Q.**       Would you have allowed him to leave?

16          **A.**       At that point in time, there was a warrant for  
17       his arrest, I'm assuming, because Detective Larry Jenkins  
18       had completed the warrant by then.

19          **Q.**       So there was warrant for his arrest and you  
20       would not have let him leave?

21          **A.**       No, ma'am.

22          **Q.**       And it sounds as if Detective -- or Investigator  
23       Jenkins did most of the paperwork and collected all the  
24       evidence.  Is there a reason why he didn't participate in  
25       the questioning?

1           **A.**       At that point in time, we were transitioning  
2           from him going into general investigations and Detective  
3           Cable was taking over major crimes.

4           **Q.**       And I take it prior to Mr. Jumper being taken to  
5           the police headquarters, he had been searched for weapons,  
6           right?

7           **A.**       I wasn't there, I do not know.

8           **Q.**       But he didn't have any weapons with him when he  
9           was in the interrogation room?

10          **A.**       No, ma'am.

11          **Q.**       And I take it that you would not have allowed  
12          him to have any kind of weapons?

13          **A.**       No, ma'am.

14          **Q.**       Now, ma'am, you being the interim lieutenant,  
15          does that mean that you are the supervisor of the  
16          investigative department?

17          **A.**       Yes, ma'am.

18          **Q.**       Okay. And, so, part of your duties as the head  
19          person would be to have a hand in all the investigations or  
20          at least know what's going on as far as what your people  
21          were doing?

22          **A.**       Yes, ma'am.

23          **Q.**       And part of the way you would do that is that  
24          you would talk to your police officers?

25          **A.**       I had just come into that role.

1           **Q.**       That would be one of your duties, right?

2           **A.**       Yes.

3           **Q.**       And I take it that another would be that you  
4 would read police reports?

5           **A.**       Yes, ma'am.

6           **Q.**       Now, in this case, I take it that getting a  
7 version of the events from Mr. Jumper's point of view is  
8 important, would that be fair to say?

9           **A.**       Yes, sir -- I mean, yes, ma'am, I'm sorry.

10          **Q.**       That's all right.

11                   And I take it in this case no statement -- he  
12 was not asked to write a statement, was he?

13          **A.**       I don't recall. Not by me.

14          **Q.**       By anybody in the police department?

15          **A.**       I don't recall.

16          **Q.**       Okay. And, in fact, there is no police report  
17 regarding the interrogation or the arrest, is that right?

18          **A.**       A police report?

19          **Q.**       Any kind of written report.

20          **A.**       I did not write one.

21          **Q.**       Do you know if the other people that worked  
22 under you wrote a report?

23          **A.**       I don't know.

24          **Q.**       Did you ask them to?

25          **A.**       I don't recall.

1           **Q.**       Would you have wanted them to write a report  
2 regarding the interrogation or the arrest?

3           **A.**       Yes, ma'am.

4           MS. SISON: Thank you.

5           No more questions, your Honor.

6           THE COURT: Any redirect by the Government?

7           MR. EASON: Very briefly.

8                       REDIRECT EXAMINATION

9 BY MR. EASON:

10          **Q.**       Detective Lambert, do you sometimes change who  
11 is in an interview and who is conducting an interview based  
12 on who best establishes a rapport with an interview subject?

13          **A.**       Yes, sir.

14          **Q.**       Was that factoring into your thinking when a lot  
15 of people were sort of coming and going in this interview?

16          **A.**       Yes, sir.

17          MR. EASON: Those would be my questions.

18          THE COURT: Thank you, Detective. You may step  
19 down.

20                 Mr. Eason, before you call your next witness,  
21 we've been proceeding for a little over two hours here.  
22 Why don't we take about a 10-minute recess.

23          MR. EASON: Thank you, your Honor.

24                 (Brief recess was taken.)

25          THE COURT: Mr. Eason, you may call your next

1 witness.

2 MR. EASON: Your Honor, the Government would  
3 call Daniel Iadonisi to the stand.

4 THE COURT: Sir, please come around and be  
5 sworn.

6 THEREUPON:

7 DANIEL IADONISI

8 called as a witness on behalf of the Government herein, duly  
9 sworn and responding "I do," was examined and testified as  
10 follows:

11 THE CLERK: Thank you, sir. Be seated.

12 THE COURT: You may proceed, Mr. Eason.

13 MR. EASON: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MR. EASON:

16 Q. Could you please state your name for the record  
17 and spell it for the benefit of the court reporter?

18 A. Daniel Iadonisi, I-A-D-O-N-I-S-I.

19 Q. And, Mr. Iadonisi, how are you employed?

20 A. I'm currently retired.

21 Q. And what did you retire from?

22 A. I was detective sergeant, criminal investigator  
23 for the Cherokee Indian Police Department.

24 Q. How long have you been in law enforcement  
25 altogether?

1           **A.**       Approximately 20 years.

2           **Q.**       Are you familiar with the subject of this case,  
3 the interview of Mr. Jumper occurring on or about August 29,  
4 2018?

5           **A.**       Yes.

6           **Q.**       How did you become aware of this case?

7           **A.**       By one of the other criminal investigators  
8 there.

9           **Q.**       Who was that?

10          **A.**       Detective Larry Jenkins.

11          **Q.**       And did he tell you about the case?

12          **A.**       Briefly. He explained what was going on and he  
13 would like to interview the Defendant.

14          **Q.**       And what was going to be your role as far as  
15 that goes?

16          **A.**       I was to accompany Detective Jason Cable to  
17 Robbinsville to try to locate the Defendant and bring him  
18 back for questioning.

19          **Q.**       At that point, do you know if there had been a  
20 warrant issued for Mr. -- the Defendant in this case?

21          **A.**       I heard Detective Larry Jenkins say that he was  
22 issuing a warrant for Mr. Jumper's arrest.

23          **Q.**       Do you know whether or not that had been done by  
24 the time you went out to Robbinsville to locate the  
25 Defendant?

1           **A.**       I don't know if the warrant was issued or not  
2 when we left.

3           **Q.**       When you went with Detective Cable to  
4 Robbinsville, where did you go?

5           **A.**       We had met Lieutenant Oswalt at their substation  
6 there near Robbinsville.

7           **Q.**       The substation there in Robbinsville, is that  
8 usually used for suspect interviews or anything like that?

9           **A.**       Not that I'm aware of.

10          **Q.**       Why not?

11          **A.**       I don't know.

12          **Q.**       Does it have the same audio/video recording  
13 capabilities as the CIPD?

14          **A.**       I don't know, I don't think it does.

15          **Q.**       Do you have much experience with the  
16 Robbinsville or the Snowbird substation?

17          **A.**       No, I don't.

18          **Q.**       Okay. Did you speak to anybody aside from  
19 Detective Jenkins about the allegations in this case?

20          **A.**       I had spoke with Detective Cable, Jason Cable,  
21 and Detective Mary Lambert.

22          **Q.**       And when you went out to Robbinsville, where did  
23 you say you met Lieutenant Oswalt?

24          **A.**       At their substation.

25          **Q.**       Where did you proceed to after that?

1           **A.**       We had followed Lieutenant Oswald to a location  
2           where we thought Mr. Jumper might be. I don't know the  
3           exact address, the first address that we went to.

4           **Q.**       And where eventually did you locate Mr. Jumper?

5           **A.**       I believe it was 143 Wachacha Road, 143 Wachacha  
6           Road.

7           **Q.**       That's in the Snowbird Community?

8           **A.**       Yes.

9           **Q.**       And do you remember making contact with the  
10          Defendant Mr. Jumper in that -- at that residence?

11          **A.**       At that residence.

12          **Q.**       What did you all tell him about why you were  
13          there and what you were doing?

14          **A.**       I believe Detective Cable told Mr. Jumper that  
15          there's been some allegations and we would have to bring him  
16          to Cherokee to do the interview.

17          **Q.**       And Mr. Jumper agreed to go with you?

18          **A.**       Yes.

19          **Q.**       Was he placed -- did he get in y'all's patrol  
20          car or squad car?

21          **A.**       Yeah, he sat in the front.

22          **Q.**       He sat in the front?

23          **A.**       Yes.

24          **Q.**       Where did you sit?

25          **A.**       I sat in the back behind him.



1           **Q.**       In this particular car, was there any type of  
2       like divider or anything like that?

3           **A.**       No.

4           **Q.**       No cage or anything?

5           **A.**       No cage.

6           **Q.**       Was he handcuffed at that point?

7           **A.**       No, sir.

8           **Q.**       Do you remember what he was wearing?

9           **A.**       He was wearing shorts and a sleeveless T-shirt.

10          **Q.**       Uh-huh. Do you remember if that was appropriate  
11       for the weather at that time of year for where y'all were?

12          **A.**       Yes, it was summertime, it was August.

13          **Q.**       Prior to bringing him back to Cherokee for an  
14       interview, had you had an opportunity to review any of the  
15       paperwork in this case, any of the reports or forensic  
16       interview or anything like that?

17          **A.**       Not prior to bringing him back, no.

18          **Q.**       About what time did you make contact with him in  
19       the afternoon that day initially?

20          **A.**       I'm guessing maybe about 4:30 p.m.

21          **Q.**       And you brought him back to Cherokee?

22          **A.**       Cherokee, yes, sir.

23          **Q.**       And where did y'all go once you got to Cherokee?

24          **A.**       We went directly to the -- one of the interview  
25       rooms.

1           **Q.**       Could you talk to the Court a little bit about  
2       the layout of this interview room as far as size, what's in  
3       it, all that type thing?

4           **A.**       The room is approximately -- it might be 8-foot  
5       by 8-foot. It has a window in it with silver film and it  
6       has blinds on the other side so as not to be able to see  
7       through. It has one table in it which sits up against the  
8       wall directly underneath a window. It has -- it has three  
9       seats in it, one chair specifically designed for the  
10      interviewee and then it has two rolling like desk chairs.

11          **Q.**       When you say one chair for the interviewee,  
12      where is that chair located in relation to the others?

13          **A.**       Well, soon as you walk into the door, that chair  
14      is immediately to the left up against the wall.

15          **Q.**       Uh-huh.

16          **A.**       And then the other two locations are where the  
17      other rolling chairs are.

18          **Q.**       And, in fact, there are cameras specifically  
19      focused on that area to catch -- to sort of catch everything  
20      that the interviewee says or does?

21          **A.**       Yes, sir.

22          **Q.**       Anything that -- okay.

23                      The door to the interview room, do you know if  
24      that locks?

25          **A.**       I don't think it locks, no.

1           **Q.**       The doors to the Cherokee Indian Police  
2 Department, those are secure, correct?

3           **A.**       Those are, yes.

4           **Q.**       You need a card to get in?

5           **A.**       You need a swipe card, yes, sir.

6           **Q.**       Do you need a swipe card to get out?

7           **A.**       No.

8           **Q.**       Were you present for the entirety of the  
9 interview with the Defendant?

10          **A.**       Yes.

11          **Q.**       Approximately how long did the interview last?

12          **A.**       I started taking notes at 5:48, which is when  
13 the actual interview began and I had Mr. Jumper sign a  
14 release form for one of his electronic devices at the very  
15 end of the interview at 7:41, approximately two hours.

16          **Q.**       Now there was some other time period where he  
17 was left sort of alone, generally?

18          **A.**       Yeah.

19          **Q.**       Nobody was asking him questions during that time  
20 period, were they?

21          **A.**       No, he was in the room by himself.

22          **Q.**       During that time period, did he have access to  
23 his cell phone?

24          **A.**       Yes.

25          **Q.**       Did you take the cell phone from him at any --

1 at any point?

2 A. I didn't, no, sir.

3 Q. Prior to beginning the interview, did you or  
4 someone in your presence advise the Defendant of his Miranda  
5 rights?

6 A. Yes.

7 Q. How did you do that?

8 A. I provided the Defendant with a copy of his  
9 Miranda and I have a copy of it myself, and I read the  
10 Miranda rights one sentence at a time, and if you understand  
11 what I'm reading, I'll have the Defendant put his initials  
12 next to the end of that particular sentence. And after  
13 reading all of his Miranda rights, we'll have him sign it  
14 and, together, we will fill out the bottom portion, which  
15 is, you know, address, phone number, Social Security number,  
16 things like that.

17 Q. And did you do that in this case --

18 A. I did.

19 Q. -- with Mr. Jumper?

20 A. Yes.

21 Q. Did Mr. Jumper -- while you were going over the  
22 rights, did he ever ask for any clarification or ask you any  
23 questions about the instructions?

24 A. No.

25 Q. Did he ever seem like he didn't understand what

1 was going on or give you pause or concern about his ability  
2 to understand the process and what was happening?

3 **A.** No.

4 **Q.** Did he mention to you any infirmity, either  
5 physical or psychological, that you thought might bear on  
6 his ability to appreciate what was going on?

7 **A.** No.

8 **Q.** Prior to transporting the Defendant to Cherokee,  
9 did you -- did you tell him specifically what the topic of  
10 the interview was?

11 **A.** I did not.

12 **Q.** Did anybody, do you know?

13 **A.** I don't recall.

14 **Q.** When you got to the interview room, did you  
15 explain to him the nature of the investigation?

16 **A.** Detective Cable did in my presence.

17 **Q.** And did Mr. Jumper seem to be taken aback or  
18 surprised by these allegations?

19 **A.** No.

20 **Q.** No?

21 **A.** No.

22 **Q.** Could you talk about that a little bit?

23 **A.** Detective Cable told him there were some  
24 allegations made against him and we were there to discuss  
25 his side of the story and that it involved his girlfriend,

1 and Mr. Jumper was the one who stated that it involves her  
2 daughter, too.

3 Q. Okay. So he didn't seem surprised by these  
4 allegations?

5 A. No, sir.

6 Q. Okay. During the course of your interview, did  
7 you get a feel for how he was behaving, the Defendant, how  
8 he was --

9 A. He was pretty calm.

10 Q. Did you ever observe the Defendant crying or  
11 expressing pain or discomfort?

12 A. No.

13 Q. Did he stand up and pace or become agitated?

14 A. No.

15 Q. Did he ever tell you that he wanted to stop the  
16 interview process?

17 A. No.

18 Q. At any time during the interview, did he give  
19 you the impression through his answers or his behavior that  
20 he was confused or unable to follow your questions?

21 A. No.

22 Q. Were you armed during the time you were in the  
23 interview room with him?

24 A. Yes, sir.

25 Q. Do you remember if he ever mentioned your

1 firearm?

2 **A.** No.

3 **Q.** Did you ever remove your firearm from its  
4 holster?

5 **A.** No.

6 **Q.** Did you ever point your firearm at anyone?

7 **A.** No.

8 **Q.** Did you ever draw attention to your firearm in  
9 any way?

10 **A.** No.

11 **Q.** Did the Defendant ever ask to take a break for  
12 the restroom or to get some water or anything like that?

13 **A.** He never asked for water.

14 **Q.** Did you ever offer opportunities for the  
15 Defendant to go to the bathroom or get something to drink or  
16 eat?

17 **A.** Yes.

18 **Q.** Did he ever take you up on that?

19 **A.** We went to the bathroom and I had brought him  
20 back a bottle of water.

21 **Q.** Did he ever ask for like a cigarette break or  
22 anything like that?

23 **A.** No.

24 **Q.** The initial portion of the interview, the  
25 Defendant denied mostly any type of inappropriate sexual

1 contact with the minor in question, is that correct?

2 A. That's correct.

3 Q. Approximately 90 minutes into it, after  
4 Detective Lambert left, he began to confess, is that  
5 correct?

6 A. That's correct.

7 Q. What was he saying about what had happened when  
8 he started confessing?

9 A. He admitted that -- we were discussing alleged  
10 digital penetration of the child's vagina and he had  
11 admitted that it happened once and then he admitted that it  
12 happened maybe one or two times.

13 Q. What number did he settle on eventually?

14 A. It happened five times.

15 Q. Where did he say these events took place?

16 A. In the car on the way back from Mission Hospital  
17 around Canton area and twice at the house where they live.

18 Q. Prior to changing from denial to admission, did  
19 you observe any change in the demeanor or behavior of the  
20 Defendant?

21 A. No.

22 Q. Did he start crying or retreating into himself  
23 or anything like that?

24 A. No.

25 Q. In fact, he sort of leans forward during this



1       portion of the interview, doesn't he?

2           **A.**       Yes, sir.

3           **Q.**       What did you take that to be when he started  
4       leaning forward like that?

5           **A.**       That he was interested in what he was saying,  
6       like he was really into what he was saying.

7           **Q.**       Did he appear to be under duress at that point?

8           **A.**       No.

9           **Q.**       Had you -- you were in the interview with him --  
10       interview room with him -- sorry. Let me rephrase.

11                   Was there ever a time when there was someone in  
12       the interview room with him that you weren't also there,  
13       like were you there the entire time someone else was there  
14       with him?

15           **A.**       Yes.

16           **Q.**       So you saw the entirety of all of the  
17       interactions that took place in that room between the  
18       Defendant and any law enforcement, is that correct?

19           **A.**       Yes.

20           **Q.**       During those time periods, did anybody threaten  
21       the Defendant?

22           **A.**       No.

23           **Q.**       Did anybody threaten the Defendant's family?

24           **A.**       No.

25           **Q.**       Did anybody threaten the Defendant's girlfriend

1 or the Defendant's girlfriend's family?

2 **A.** No.

3 **Q.** At any time during that period, did anyone make  
4 any promises to the Defendant?

5 **A.** No.

6 **Q.** Did you talk about whether or not you would be  
7 able to help the Defendant or have him help himself?

8 **A.** Have him help himself.

9 **Q.** Could you describe a little bit about that to  
10 the Court?

11 **A.** Convincing the Defendant to tell the truth, to  
12 tell all of the truth, not just bits and pieces of it, would  
13 go a long way as far as, you know, court proceedings,  
14 telling the truth goes a long way. And in my interview, I  
15 attempt to convince a Defendant to do that.

16 **Q.** To tell the truth?

17 **A.** To tell the whole truth, correct.

18 **Q.** So approximately how long would you say that the  
19 interview had been going on between his denials to his  
20 confession?

21 **A.** From his denials, maybe an hour or so.

22 **Q.** And the remainder of the time of the interview  
23 was what, specifically, if that only took about an hour, why  
24 did the whole interview take two hours?

25 **A.** Well, I had spoke to the Defendant by myself, it

1 was just me and him for a while. And then Detective Cable  
2 had reentered the room and we did some follow-up questions,  
3 try to recap what was happening, things of that nature. We  
4 had him sign some forms to retrieve his cell phone and iPad.

5 Q. Uh-huh. Did you offer the Defendant an  
6 opportunity to make a written statement in this case?

7 A. I did.

8 Q. Did you provide him with the necessary things to  
9 do that, paper, pencil, that type thing?

10 A. I did.

11 Q. Do you know if he ever produced a written  
12 statement at all?

13 A. No, he didn't.

14 Q. What did the Defendant tell you about what he  
15 did, how did he describe what he was doing?

16 A. He described the -- initially as, yes, it did  
17 happen once or maybe twice, he had touched the child in the  
18 vaginal area and his finger had went up inside her.

19 Q. Did he say about how deep?

20 A. Well, I had asked him that and I had showed him  
21 on my finger, you know, was it this much or that much, and  
22 he had indicated that it was up to the first knuckle joint.

23 Q. During this, did he say whether he was aroused?

24 A. I don't recall him saying he was aroused.

25 Q. During this, did he indicate to you that he

1           believed that the minor child was aroused?

2           **A.**       Yes.

3           THE COURT: Mr. Eason, I have reviewed the  
4           transcript.

5           MR. EASON: Yes, your Honor.

6           BY MR. EASON:

7           **Q.**       Is that something that you suggested to him?

8           **A.**       Can you rephrase the question?

9           **Q.**       Did you suggest the notion that the minor child  
10          might have been a willing participant?

11          **A.**       No.

12          **Q.**       At any time during the interview process, did  
13          the Defendant ask to speak to an attorney?

14          **A.**       No.

15          **Q.**       At any time during the interview process, did  
16          the Defendant indicate that he was even uncomfortable or  
17          asked for something to be done to improve his comfort?

18          **A.**       No.

19          **Q.**       Was there any sort of plan or organization or  
20          stratagem as far as who was interviewing him and what was to  
21          be said conceived in advance of this interview?

22          **A.**       No.

23          **Q.**       Did you treat this particular Defendant any  
24          differently than you would any other interviewee?

25          **A.**       No.

1           **Q.**       In fact, during the entire time you were with  
2       this Defendant, did anybody so much as raise their voice to  
3       him?

4           **A.**       No.

5           **Q.**       To your knowledge, did anyone physically touch  
6       him prior to when he was placed under arrest at the  
7       conclusion of everything by Detective Jenkins?

8           **A.**       No.

9           **Q.**       There -- were there ever more than two officers  
10      present in the interview room at any given time?

11          **A.**       No.

12          **Q.**       What's the purpose of limiting that?

13          **A.**       Well, there's only three seats in there, first  
14      of all. One for the Defendant and one for, you know, each  
15      officer. The room is small, an overabundance of people in  
16      there, I mean, you just don't do that.

17          **Q.**       What's the purpose of recording all of these  
18      interviews, why is that policy, do you know?

19          **A.**       Well, we like to document audio and video for,  
20      you know, court purposes and to recall, to refresh memories,  
21      things like that.

22          **Q.**       Can it also be used to make sure nothing  
23      inappropriate is happening to the Defendant?

24          **A.**       It's also used for the officer safety and the  
25      Defendant, uh-huh.

1           **Q.**       Did you produce a written report regarding your  
2 involvement in this interview?

3           **A.**       I don't recall ever typing up a report about  
4 this.

5           **Q.**       Were you just relying on the interview itself as  
6 sort of to speak for itself?

7           **A.**       Yes, sir.

8           **Q.**       Detective Iadonisi, at any point in the  
9 interview process, did the Defendant express any contrition  
10 or guilt or feeling bad about what happened?

11          **A.**       No.

12          **Q.**       Do you know -- the Defendant was arrested after  
13 the interview, is that correct?

14          **A.**       I understand that he was. I didn't actually see  
15 the arrest.

16          **Q.**       And you didn't participate in the arrest?

17          **A.**       No, sir.

18          **Q.**       Prior to that arrest, the entire time the  
19 Defendant was in the interview room, though, he had his  
20 phone with him, correct?

21          **A.**       Yes.

22          **Q.**       And he was allowed to keep his phone and keep it  
23 even when you all were in the room?

24          **A.**       Yes.

25          **Q.**       Did you see him make any calls or anything?

1           **A.**       I didn't personally, no, sir.

2           **Q.**       And there's free wi-fi in the Cherokee Indian  
3 Police Department, isn't there, tribal-wide?

4           **A.**       Yes, sir.

5           **Q.**       Anybody can link up to it?

6           **A.**       Yes, sir.

7           **Q.**       Did the Defendant ever ask to speak to anyone  
8 outside of the interview room at any time during the  
9 interview?

10          **A.**       No.

11          **Q.**       Was there anything physically obstructing him  
12 from leaving the interview room at any time?

13          **A.**       No.

14          **Q.**       Other than when officers were coming and going?

15          **A.**       No.

16               MR. EASON: Those would be my questions for this  
17 witness, your Honor.

18               THE COURT: Cross examination, Ms. Sison.

19               MS. SISON: Thank you.

20                       CROSS EXAMINATION

21 BY MS. SISON:

22          **Q.**       Detective Iadonisi, was he ever given the option  
23 to speak to anybody, I mean, somebody saying to him you want  
24 to speak to anyone?

25          **A.**       He had that option.

1           **Q.**       I understand, but did any of you tell him you  
2 have the option to speak to someone?

3           **A.**       I did not say that.

4           **Q.**       And you didn't hear anybody else say that?

5           **A.**       I don't recall hearing anyone else say that.

6           **Q.**       And you didn't tell him he could leave at any  
7 time, I take it?

8           **A.**       I didn't say that.

9           **Q.**       And I take it that, when you were there, you  
10 didn't hear anybody else tell him he could leave?

11          **A.**       I don't recall hearing anybody else telling him  
12 he could leave.

13          **Q.**       Okay. And as I understand it, when he was  
14 brought to police headquarters, he was taken to the back  
15 door?

16          **A.**       Correct.

17          **Q.**       Not the front door, which is open to the public,  
18 is that right?

19          **A.**       That's right.

20          **Q.**       And in order for somebody to get into the back  
21 door, you need a card to swipe, is that right?

22          **A.**       That's correct.

23          **Q.**       And, so, either you or Investigator Cable took  
24 out your card to go in, is that correct?

25          **A.**       Correct.



1           **Q.**       And you indicated that you don't need a card to  
2 get out?

3           **A.**       No.

4           **Q.**       But that's not known to Mr. Jumper, is it?

5           **A.**       I don't know.

6                   MR. EASON: Objection, speculation.

7                   THE COURT: Sustained.

8 BY MS. SISON:

9           **Q.**       He saw you or Investigator Cable take a card and  
10 swipe, right?

11          **A.**       I don't know if he saw that or not. I don't  
12 remember.

13          **Q.**       He might have?

14          **A.**       He might have.

15          **Q.**       But it was clear you couldn't just pull the door  
16 and it would open?

17          **A.**       Yes.

18          **Q.**       And you indicated also that he had a phone with  
19 him during the entire interview?

20          **A.**       He had it on his person.

21          **Q.**       So one of the reasons that was suggested is so  
22 that he could call anybody at any time?

23          **A.**       We just didn't have a reason to take his phone  
24 at that time.

25          **Q.**       Another reason is that he may call someone at

1 any time, is that right?

2 A. He may.

3 Q. And, so, if he calls somebody and confesses on  
4 the phone, that would be yet another evidence that would be  
5 good for the police, is that right?

6 A. I suppose so.

7 Q. Now you indicated that you are relying on the  
8 tape instead of a written report, is that right?

9 A. I have a transcript of the interview.

10 Q. And you have a transcript in lieu of a police  
11 report that you wrote?

12 A. I don't have a police report.

13 Q. And I take it nobody else that day that  
14 interviewed Mr. Jumper wrote a police report?

15 A. Detective Cable wrote the police report.

16 Q. He wrote a police report?

17 A. I believe he wrote because this was his case.

18 Q. Would you be surprised if he said he didn't  
19 write a police report?

20 A. No, I wouldn't be surprised at all.

21 Q. Okay. So I think from what you said in direct  
22 that part of the reason you didn't need a police report in  
23 this case is you have the transcript to rely on?

24 A. Yes.

25 Q. But you don't have the transcript of the actual

1       picking up Mr. Jumper, do you?

2           **A.**       I was with him.

3           **Q.**       Correct?

4           **A.**       There was no transcript of that.

5           **Q.**       And -- but you didn't write a report regarding  
6 your picking him up?

7           **A.**       Correct.

8           **Q.**       And you didn't write a report regarding from the  
9 time you picked him up and taken him to the police  
10 department, is that right?

11          **A.**       That's right.

12          **Q.**       And there was no video of that entire encounter  
13 with him?

14          **A.**       No.

15          **Q.**       And, sir, you said there was never more than two  
16 officers in the interrogation room, is that right?

17          **A.**       To my knowledge, that's right.

18          **Q.**       And I take it both officers can't speak at the  
19 same time, and I'm talking simultaneously, to question a  
20 suspect, is that right?

21          **A.**       Well, sometimes we will speak at the same time,  
22 sometimes one of us will start to speak and then the other  
23 one will interject, that happens.

24          **Q.**       Sure, I understand that, but I'm talking about  
25 you don't talk intentionally at the same time, I'm not

1       talking about interruptions, but you don't talk at the same  
2       time?

3           **A.**       Correct.

4           **Q.**       And, so, you don't need two officers, you could  
5       do an interview with one officer?

6           **A.**       You can.

7           **Q.**       And in this case, there were times where  
8       Mr. Jumper was alone?

9           **A.**       Correct.

10          **Q.**       There was a time when I think he was alone with  
11       you as the only officer there, is that right?

12          **A.**       Correct.

13          **Q.**       But most of the time it was two officers, either  
14       you or Investigator Cable, or you or Investigator Lambert,  
15       is that right?

16          **A.**       Correct.

17          **Q.**       And, so, I take it that the plan was to get a  
18       confession from him, would that be fair to say?

19          **A.**       That was the purpose of the interview.

20          **Q.**       Okay. You indicated during this interview  
21       process he -- and I'm talking about the entire interview  
22       process, not a particular time, that he purportedly said  
23       that there was five times when he allegedly touched the  
24       minor victim in this case, is that right?

25          **A.**       That's right.

1           **Q.**       Now you studied the report -- the forensic  
2 interview of that minor victim?

3           **A.**       I didn't study it. I had -- I was privy to it  
4 during the -- a portion of the interview with myself and  
5 Detective Lambert.

6           **Q.**       And you're aware that the minor victim said that  
7 there were only allegedly three instances?

8           **A.**       I don't recall.

9           **Q.**       You never followed up why there was such a big  
10 inconsistency between his purported statement and her  
11 purported statement, is that right?

12          **A.**       I don't recall that.

13          **Q.**       You don't recall that?

14          **A.**       I don't recall her saying that it happened three  
15 times.

16          **Q.**       Okay. So you did not study the report from the  
17 forensic -- the forensic report regarding the minor victim?

18          **A.**       Right.

19          **Q.**       You didn't?

20          **A.**       Correct.

21          **Q.**       Okay. So, if Investigator Lambert said she was  
22 sharing that information with you, she would be wrong?

23          **A.**       No, I had the CME report as written by the  
24 interviewer. We were passing that back and forth, and that  
25 was the first time I was looking at that. So, while

1 Detective Lambert was talking, I was looking at it. While I  
2 was talking, Detective Lambert was looking at it. I don't  
3 recall seeing where the minor said that happened three  
4 times.

5 Q. Would you like to take a look at it if it would  
6 refresh your recollection?

7 A. Yes.

8 MS. SISON: Your Honor, may I approach?

9 THE COURT: Any objection?

10 MR. EASON: No, your Honor.

11 THE COURT: Yes, ma'am, you may.

12 THE WITNESS: Okay.

13 BY MS. SISON:

14 Q. Does that refresh your recollection?

15 A. Not really, but, I mean, I recall looking at  
16 that and reading bits and pieces as we were interviewing  
17 Mr. Jumper.

18 Q. But that was the case, a total of three times  
19 that the victim indicated it happened?

20 A. What I just read, it indicates three times.

21 Q. Now, sir, Mr. Jumper kept denying anything  
22 happened for a good while, would that be fair to say?

23 A. He denied it for about an hour more or less, I'm  
24 not exactly sure.

25 Q. And he just kept saying nothing happened,

1 nothing happened, you're wrong, you're wrong, that would be  
2 fair to say that's what he said?

3 **A.** Correct.

4 **Q.** And then at some point, Investigator Cable left  
5 to go get a polygraph expert?

6 **A.** He had offered that forensic examination to  
7 Mr. Jumper who complied and he left the room to go make the  
8 necessary phone calls to set that up.

9 **Q.** And Mr. Jumper readily wanted to take the  
10 polygraph, is that right?

11 **A.** Correct.

12 **Q.** There was no hesitation on his part?

13 **A.** No.

14 **Q.** And this was happening the whole time he was  
15 denying anything happened between him and the minor child,  
16 is that correct?

17 **A.** Correct.

18 **Q.** I take it that -- you said you recently retired  
19 there from the police department?

20 **A.** Yes.

21 **Q.** And you had said that you had 20 years'  
22 experience as law enforcement?

23 **A.** Correct.

24 **Q.** Is that all with Cherokee or did you work  
25 someplace else?

1           **A.**       No, I worked somewhere else.

2           **Q.**       And how long had you been at Cherokee?

3           **A.**       I was at Cherokee for 13 and a half years.

4           **Q.**       Were you a detective during the entire time?

5           **A.**       No, ma'am.

6           **Q.**       What did you start off as?

7           **A.**       I started off as a corrections officer there.

8           **Q.**       And how long before you went from corrections  
9 officer to becoming a detective?

10          **A.**       In April of 2007, I became a detective.

11          **Q.**       Prior to being a corrections officer, were you  
12 law enforcement someplace else?

13          **A.**       I was, I was a patrol officer six years in  
14 Bryson City.

15          **Q.**       And what about prior to that?

16          **A.**       I was a reserve officer in Fort Pierce, Florida  
17 for approximately a year.

18          **Q.**       Okay. Now, as part of your training, were  
19 you -- have you taken any classes in interrogation  
20 techniques?

21          **A.**       Yes.

22          **Q.**       And how many classes have you taken?

23          **A.**       I've taken quite a few classes. I don't have  
24 all my training certificates with me, but we have been to  
25 several interview and interrogation techniques.



1           **Q.**       And when you say "we," are you talking about the  
2 other police officers?

3           **A.**       The other investigators.

4           **Q.**       And how often would you go?

5           **A.**       Whenever they become available.

6           **Q.**       And, so, when you say quite a bit, I'm assuming  
7 more than 10 during your career?

8           **A.**       We probably have been to about three or four  
9 interviewing interrogation techniques, seminars, symposiums.  
10 We've been to crime scene investigation techniques, evidence  
11 collection, bullet trajectory, blood splatter analysis. We  
12 have gone to a lot of investigator training.

13          **Q.**       And, so, part of those techniques is to ask the  
14 questions so that the person will provide you information  
15 about what you believe happened, would that be fair to say?

16          **A.**       We ask him a question that pertains to what  
17 we're talking about.

18          **Q.**       And according to your direct testimony, you  
19 never suggested an answer?

20          **A.**       I don't recall.

21          **Q.**       Pardon me?

22          **A.**       I don't recall that.

23          **Q.**       So everything that Mr. Jumper said was not a  
24 result of a suggestion from the police, that's something  
25 that he came up with himself?

1           **A.**       Not all of them, no.

2           **Q.**       So there were some suggestions that you or one  
3 of the other officers made?

4           **A.**       Yes.

5           **Q.**       And I believe one of the things you had asked  
6 him, that was there was accidental touching at some point.

7           **A.**       I don't recall exactly asking it in those words,  
8 but I probably did.

9           **Q.**       Okay. And that also I got the feeling from  
10 reading the transcript that you were trying to show him that  
11 you were trying to help him out. Would that be a fair  
12 characterization?

13          **A.**       By telling the truth, I would tell the  
14 prosecutor that he cooperated.

15          **Q.**       Do you remember telling him that you can fix  
16 this?

17          **A.**       We can fix this.

18          **Q.**       Meaning you and he together?

19          **A.**       Meaning if he tells the truth, yeah, we can fix  
20 this.

21          **Q.**       And you used the word "truth"?

22          **A.**       The truth.

23          **Q.**       And do you remember saying that, after today,  
24 meaning after the day of the interview, that you couldn't  
25 help him anymore?

1           **A.**       After his interview was over, I knew that he was  
2 going to be charged and arraigned and assigned a lawyer, an  
3 attorney, and I wouldn't be able to talk to him one-on-one  
4 anymore after that day.

5           **Q.**       Is that what you told him, that, after this,  
6 he's going to be charged, arraigned, given an attorney and  
7 that you can't speak one-on-one with him anymore?

8           **A.**       No, I just told him after today, I can't talk, I  
9 can't help you anymore.

10          **Q.**       And then do you recall telling him that you  
11 didn't want the girl to go through court?

12          **A.**       I recall that, yes.

13          **Q.**       And that, at some point, do you recall telling  
14 him that her mother had a part in this, too?

15          **A.**       I never said that to him, no.

16          **Q.**       You don't recall saying that the latter part?

17          **A.**       I don't recall that, no.

18          **Q.**       Do you remember telling Mr. Jumper that the  
19 minor child was torn and I'm assuming you meant the private  
20 parts?

21          **A.**       Yes.

22          **Q.**       And do you recall saying that she was scarred?

23          **A.**       I do.

24          **Q.**       And do you mean that physically or  
25 psychologically?

1           **A.**       I told him that she was scarred meaning  
2 physically and I also told him that she was -- could have  
3 been traumatized.

4           **Q.**       Okay. And, so, when you went to pick him up  
5 initially in the Robbinsville home, I take it you went to  
6 his cousin's house. Do you remember that?

7           **A.**       Yeah, I mean, yes, he was a -- his last name was  
8 Jumper as well; I don't recall his first name offhand.

9           **Q.**       Would it be Jason?

10          **A.**       I don't recall.

11          **Q.**       Now you gave the address of 143 Wachacha Road?

12          **A.**       Yes.

13          **Q.**       Was that -- that's Mr. Jumper's home. I just  
14 want to make sure I wasn't -- that is not the cousin's home,  
15 right?

16          **A.**       That's where they were staying. I don't recall  
17 the address of his cousin's home.

18          **Q.**       Are you sure it wasn't at his cousin home at 41  
19 Little Snowbird Road?

20          **A.**       It could have been. I don't recall that.

21          **Q.**       Okay, but it was within, I guess, five minutes  
22 of each other?

23          **A.**       Yes.

24          **Q.**       And at that point, did you ever tell -- and I'm  
25 talking about when you first initially encountered

1 Mr. Jumper, did you ever tell him that he was a suspect?

2 A. I don't recall ever telling him that.

3 Q. So you never told him that?

4 A. No.

5 Q. Do you remember hearing if Investigator Cable  
6 told him that?

7 A. I don't recall him -- I don't recall that.

8 Q. And you never told him that there was a warrant  
9 for his arrest?

10 A. I never told him that.

11 Q. And you never told him that there was a criminal  
12 complaint with his name on it?

13 A. I never told him that.

14 Q. And, so, during the time that you took him from  
15 his house, or whoever's house it was, to the police station,  
16 did you ask him any questions?

17 A. No.

18 Q. Did you make any small talk with him?

19 A. No.

20 Q. Did you hear if Investigator Cable made any  
21 small talk with him?

22 A. I don't recall hearing anything.

23 Q. Did you hear Investigator Cable ask him any  
24 questions?

25 A. I don't recall Investigator Cable asking him

1 anything.

2 Q. So, during the entire -- and I take it it was  
3 about an hour from Robbinsville to the police department,  
4 was there any conversation that went on?

5 A. No.

6 Q. No conversation at all?

7 A. Not that I recall.

8 Q. And because you hadn't told him anything, he  
9 didn't know why you were taking him other than you had  
10 questions, would that be fair to say?

11 A. Correct.

12 Q. And you -- now you indicated that, at some  
13 point, you did leave the interview room at some point?

14 A. At some point, we left the interview room,  
15 correct.

16 Q. Do you remember how many times you did that?

17 A. No, I don't.

18 Q. And when you did leave, was it for any period of  
19 time when somebody else was talking with him?

20 A. I don't recall that.

21 Q. Do you recall watching him from the  
22 investigators' room through, I guess, the video monitor of  
23 some sort?

24 A. I recall seeing him, watching him for a little  
25 bit, yes.

1           **Q.**       Do you know what he was doing at that time?

2           **A.**       He was sitting there very still.

3           **Q.**       Okay. And during the time that this interview  
4 was happening, did you have a chance to talk to Officer  
5 Jenkins?

6           **A.**       No.

7           **Q.**       Was he in the interview -- in the investigators'  
8 room?

9           **A.**       I don't know where he was.

10          **Q.**       Did he ever enter the interrogation room?

11          **A.**       Not to my knowledge.

12          **Q.**       And who served the criminal complaint and the  
13 arrest warrant on Mr. Jumper, if you know?

14          **A.**       Detective Jenkins.

15          **Q.**       I'm sorry?

16          **A.**       Detective Jenkins.

17          **Q.**       So is that the only time that he went into the  
18 room?

19          **A.**       As far as I -- as far as I know, yes.

20                   MS. SISON: Okay. Thank you, sir.

21                   Nothing more, your Honor.

22                   THE COURT: Any redirect, Mr. Eason?

23                               REDIRECT EXAMINATION

24                   BY MR. EASON:

25           **Q.**       Detective Iadonisi, the -- what would you say is

1 the purpose of an interview in any situation?

2 A. To determine -- to get the truth.

3 Q. And was --

4 A. To hear their story and get the truth out.

5 Q. And was that the purpose of the interview in  
6 this case as well?

7 A. Yes.

8 MR. EASON: Those would be my questions on  
9 redirect, your Honor.

10 THE COURT: Thank you, Detective. You may step  
11 down.

12 THE WITNESS: Yes, sir.

13 THE COURT: Any further evidence by the  
14 Government?

15 MR. EASON: Not at this time, your Honor. I  
16 believe that's the evidence from the Government.

17 THE COURT: Ms. Sison, you had indicated  
18 previously you expected to present evidence that lasts an  
19 hour to an hour and a half?

20 MS. SISON: That's correct, sir.

21 THE COURT: We will go ahead and proceed with  
22 yours at this time, if you want to call your first  
23 witness.

24 MS. SISON: Your Honor, that would be  
25 Dr. Richard Leo.



1 THE COURT: Dr. Leo, please come around this  
2 way.

3 THEREUPON:

4 RICHARD LEO, PhD, JD  
5 called as a witness on behalf of the Defendant herein, duly  
6 sworn and responding "I do," was examined and testified as  
7 follows:

8 THE CLERK: Thank you, sir.

9 MS. SISON: Your Honor, before I start, Mr.  
10 Eason and I talked about Dr. Leo's CV. I believe it was  
11 part of the attachments to the reply and Government does  
12 not have any objection.

13 MR. EASON: Your Honor, we're just asking  
14 specifically as to the area he's going to be tendered as  
15 an expert.

16 MS. SISON: That's correct, your Honor. I'm not  
17 going far afield anyplace else. The CV does have  
18 information about his accomplishments and stuff, but I  
19 understand where Mr. Eason is coming from, so I'm not  
20 asking anything legal.

21 THE COURT: I'm not sure I understand where  
22 you're coming from. Is the question whether his CV is --

23 MR. EASON: No, no, your Honor.

24 THE COURT: -- not being offered or what he's  
25 being offered to testify about.

1 MR. EASON: Your Honor, the CV is satisfactory  
2 and Dr. Leo has testified as an expert in cases, actually,  
3 that I've worked on before and I'm well aware of his  
4 credentials. I just want to know -- I guess I'm  
5 interested in the specific area of expertise he's going to  
6 testify about today.

7 THE COURT: That was the question I'd had as  
8 well.

9 Ms. Sison, what field or area is he going to be  
10 testifying about today?

11 MS. SISON: Your Honor, Dr. Leo has a specialty  
12 in discussing interrogation techniques and, so, what I'm  
13 going to ask him about is the interrogation techniques  
14 that were used in this particular case. So we're talking  
15 about confession that I believe was involuntarily made, so  
16 that's -- it's limited to that.

17 THE COURT: So he's being proffered as an expert  
18 in the field of interrogation techniques?

19 MS. SISON: That's correct.

20 THE COURT: And what's Government's position  
21 about that?

22 MR. EASON: In that regard, your Honor, we would  
23 have no objection.

24 THE COURT: I have reviewed his CV. Ms. Sison,  
25 if you wouldn't mind for the record just laying a little

1 more foundation in that regard.

2 MS. SISON: Yes. And we will ask questions,  
3 your Honor, so in light -- I'm sorry for going to ask a  
4 lot of questions, but I'm going to do it directly.

5 THE COURT: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MS. SISON:

8 Q. Dr. Leo, what's your current occupation?

9 A. I'm currently professor of law and psychology at  
10 the University of San Francisco.

11 Q. And what are your responsibilities at the  
12 university?

13 A. I teach courses, I do research and publication,  
14 and I do service to the university and the community.

15 Q. And what courses do you currently teach?

16 A. I currently teach criminal law, constitutional  
17 criminal procedure and seminar on erroneous convictions in  
18 the criminal justice system.

19 Q. And were you previously professor of psychology  
20 and criminology at UC Irvine?

21 A. I was.

22 Q. And what kind of courses did you teach there?

23 A. There, I taught undergraduate courses on  
24 criminal justice system, on police interrogation and  
25 confessions, on erroneous convictions, and I taught graduate

1 level seminars on police organizational behavior and other  
2 topics in the fields of criminology and social psychology.

3 Q. And can you tell us about your academic training  
4 and the degrees you currently hold?

5 A. Sure. I have a bachelor's degree in sociology  
6 from UC Berkeley, a master's degree in sociology from UC  
7 Berkeley. I have a JD and PhD from the UC Berkeley.

8 The PhD is in interdisciplinary law and social  
9 science program which allowed me to specialize in graduate  
10 school in fields of criminology, social psychology and  
11 sociology in addition to law.

12 Q. And, so, as part of your PhD, did you do a  
13 dissertation?

14 A. I did.

15 Q. And can you tell us what the subject of that  
16 dissertation was?

17 A. It was the how interrogation, police  
18 interrogation, had changed over the course of the 20th  
19 century and the implications for psychology for law and for  
20 public policy.

21 Q. And when did you present that dissertation?

22 A. The research was done in 1991 to 1993. It was  
23 written in 1993 to 1994 and filed in 1994.

24 Q. And have you published any articles or books  
25 based on that particular research?

1           **A.**       I have, yes.

2           **Q.**       What other topics have you conducted research  
3 on?

4           **A.**       So the primary topics I've conducted research on  
5 in my career would be the psychology of interrogation,  
6 psychological coercion, true and false confessions, and the  
7 problem of error in the criminal justice system, why it  
8 happens and what can be done to minimize it from happening.

9           **Q.**       You had mentioned that you had a JD. Are you a  
10 practicing lawyer?

11          **A.**       I am not, no.

12          **Q.**       Why did you get a JD?

13          **A.**       Well, certainly it's a busman's holiday, so it  
14 turned out to be free, I didn't have to pay for it. I was  
15 able to use any graduate fellowship money to pay for the  
16 tuition of the law school. And since I wanted to be a  
17 scholar, a social scientist of the legal system,  
18 essentially, I thought it would be helpful to have a JD to  
19 better understand the legal system. So that was primarily  
20 the reason. It was for academic reasons and interest, not  
21 to become a lawyer.

22          **Q.**       Okay. You had mentioned that you had published  
23 articles and books in regards to your research. How many --  
24 I mean, just give us a ballpark figure as far as the books  
25 and the articles.

1           **A.**       So half a dozen books at this point. And the  
2 articles I tend to lump them together with chapters and  
3 edited volumes. So, at times connected with research,  
4 somebody will put together a series of papers that become  
5 chapters in a book that's an edited book about a certain  
6 topic. So lumping the academic journal articles with the  
7 chapters in edited volumes, at this point, I think I'm over  
8 a hundred or around a hundred.

9           **Q.**       So can you tell us what a peer-reviewed  
10 publication is?

11          **A.**       Sure. So, in academia, particularly in science  
12 and social science, the convention is, when you submit an  
13 article or a book manuscript, to have it anonymously  
14 reviewed by your peers which would be experts in your field  
15 for the originality and the quality of the analysis and the  
16 data and the conclusions, and then the editor will decide  
17 whether to accept or reject the article or ask for it to be  
18 revised and resubmitted based on the peer reviews.

19               And, so, the theory is that if the peer reviews  
20 are negative, the article would not be accepted. If the  
21 reviews are positive, the article would be accepted. If  
22 it's in the middle, the work would be revised responsive to  
23 the critical comments within the review. And, so, the  
24 theory is that it weeds out research and publications,  
25 doesn't mean the standards of the scientific research or

1 discipline and, therefore, you get a higher quality research  
2 and publication. So, really, it's a quality control  
3 mechanism, a way in which scientists and social scientists  
4 police the quality and the competence of the research that  
5 ultimately gets accepted for publication.

6 **Q.** So the publications that you mentioned, are most  
7 of them peer reviewed?

8 **A.** In my case, yes. When I shifted to teaching at  
9 the law school, some of the research that I published has  
10 been in law reviews and law reviews either have no peer  
11 review or they have some brief peer review, sometimes full  
12 peer review or modified peer review, but the overwhelming  
13 majority of my publications have gone through the  
14 traditional peer review process and I serve at times as peer  
15 reviewer at times myself.

16 **Q.** Can you tell us some honors or awards that  
17 you've received in your field?

18 **A.** So I've been very fortunate to receive a number  
19 of honors and awards. The awards really break into two  
20 categories. There's career achievement or lifetime  
21 achievement awards based on the body of my research and  
22 publications and then there are awards for particular books  
23 that I've written.

24 The organizations that have given these awards  
25 have been academic, professional, scientific organizations

1       like the American Society of Criminology or the American  
2       Psychological Association or the American Sociological  
3       Association. So there's a number of awards over the years  
4       of those nature -- that nature.

5           **Q.**       And, so, the research that you've done, is this  
6       a generally accepted area of study within the social  
7       scientific community?

8           **A.**       So the specific areas that I mentioned earlier  
9       are all generally accepted in the sense that there is a body  
10      of social scientific research and critical peer-reviewed  
11      social science research that goes back many decades, that  
12      there are hundreds, if not thousands, of publications,  
13      primarily journal articles but also books, that this is the  
14      subject matter where there are dozens of graduate students  
15      and professors and internet researchers and document  
16      research publishing -- writing dissertations, publishing  
17      articles and books, every year. That when the large  
18      disciplines of social psychology, criminology have  
19      encyclopedias, there's usually a section on psychology  
20      interrogation of false confessions, for example.

21                    So it's generally accepted in that there is this  
22      body of peer-reviewed research and, more specifically, it's  
23      generally accepted in terms of the core body of findings,  
24      the methods that are used to acquire the information and the  
25      research. There are theories or principles that animate or



1 drive some of the research that is also part of what is  
2 generally accepted.

3 So there's general acceptance that it's a  
4 legitimate area of study going back many years with  
5 recognized methods with the core body of findings,  
6 obviously, science and social science change over time and,  
7 so, people push the envelope, new additions, new ideas as in  
8 any field, but there's no dispute that it's a generally  
9 accepted area of social science in the ways that I've  
10 described.

11 Q. And, so, have you been invited to do  
12 presentations or seminars to particular groups of people?

13 A. So I've given hundreds of seminars -- or  
14 lectures, I should say, not seminars. It divides into two  
15 or three types of situations. One is where I make  
16 presentations at scientific and professional societies upon  
17 research or I give keynote lectures at these societies  
18 synthesizing a body of research.

19 And then there is invitations to present at  
20 universities, which is typically the same thing, ongoing  
21 research or synthesis, or perhaps at a conference around a  
22 particular subject matter or theme.

23 And then the third context would be to criminal  
24 justice professionals. So what is this body of knowledge  
25 have to do or how can it help or apply to the activities of

1 particular professional groups.

2 So, primarily, I've given lectures to -- invited  
3 to give lectures to criminal defense attorneys, in  
4 particular, public defenders and also presented many times  
5 to judges at their conferences, to police officers, though  
6 not very recently, either teaching courses to a couple  
7 departments that I did in Florida many years ago or giving  
8 lectures to police organizations or at conferences of law  
9 enforcement, to paralegals, to investigators, to forensic  
10 psychologists and psychiatrists. That would be the third  
11 type of lectures that I've been invited to present over the  
12 years.

13 **Q.** Have you ever been an advisory member to a  
14 police department?

15 **A.** I was on one occasion in the City of Long Beach,  
16 they had an academic advisory committee. So the police  
17 chief that met every couple of months had a number of local  
18 area academics who studied either policing or subjects  
19 related to policing. I think it was about 2001 or 2003 for  
20 the Long Beach Police Department as a member of that  
21 committee.

22 **Q.** And have you ever been asked to give legislative  
23 testimony based on your research?

24 **A.** I have on a number of occasions; I'd say about  
25 half a dozen at this point, California, Wisconsin, Illinois,

1 New York. Again, the testimony has been responsive to what  
2 the congressional committee or subcommittees were looking  
3 for. So research on use of intimidation or the use of  
4 deception during interrogation or how to recognize and  
5 prevent false confessions leading to erroneous convictions.

6 Q. So have you ever testified as an expert witness  
7 on the subject of police interrogation, involuntary  
8 confessions and psychological coercion?

9 A. I have on many occasions, yes.

10 Q. And have you actually served in that capacity  
11 before this Court?

12 A. I believe I have on at least one occasion or  
13 maybe only one occasion, yes.

14 Q. And that was a couple years ago before a  
15 different magistrate judge, is that correct?

16 A. Correct.

17 Q. And how many times have you been qualified to  
18 testify as an expert witness and in what states?

19 A. Well, at this point, it's over 350 times. I  
20 believe it's around 35 to 40 states, somewhere in that  
21 range, going back to 1997. Most of the time, state court,  
22 but I think about 30 times in federal and military courts.  
23 And about two-thirds of the time at trials and about  
24 one-third of the time at pretrial motions in limine or  
25 suppression motions or what, in California, are called 402

1       hearings.

2           **Q.**       Have you ever testified for the prosecution?

3           **A.**       I have, yes, on three occasions.

4           **Q.**       Why -- can I ask why so few?

5           **A.**       Well, it's very rare for my kind of expertise to  
6       be called by the prosecution. I'm sure there are other  
7       types of investigations where it would be rare to be called  
8       by the Defense. And, so, I almost never get any calls  
9       asking me to consult on cases by the prosecutors.

10          **Q.**       Well, given the research that you've done, are  
11       you opposed to police interrogation?

12          **A.**       No.

13          **Q.**       Can you say more about that?

14          **A.**       Yes, sure. So a couple things. One is that I  
15       think everyone, whether it's law enforcement or academic  
16       researchers, is really interested in the same thing, which  
17       is improving the quality of interrogation so that you can  
18       get more accurate and reliable confessions and fewer false  
19       or inaccurate confessions. I found the research  
20       tremendously fascinating starting with police interrogation  
21       and then the unintended consequences of which could be  
22       coerced or involuntary or false confessions.

23                There is some police interrogation manuals that  
24       many years ago referred to opponents of police interrogation  
25       and sometimes would directly or indirectly refer to me and

1 the research that I'd done. I don't think of myself as an  
2 opponent. When I have been invited to give talks to police  
3 or put on police training, I've done it, I've always done it  
4 pro bono.

5 So what I want is interrogation procedures that  
6 are fair and result in accurate information and I think, to  
7 solve crimes in a democratic society, that's enormously  
8 important. I don't see myself as an opponent of police  
9 interrogation. It maybe because, when I testify, I often  
10 testify for criminal defense attorneys. Maybe that's why  
11 there's a misperception, but I don't think I've been  
12 referred to police interrogation manuals as an opponent of  
13 police interrogation.

14 MS. SISON: Your Honor, I would like to tender  
15 Dr. Leo as an expert witness in police interrogation,  
16 psychological coercion and involuntary confessions.

17 THE COURT: Any objection by the Government?

18 MR. EASON: No, your Honor.

19 THE COURT: Do you have any questions before I  
20 rule on that tender?

21 MR. EASON: No, your Honor.

22 THE COURT: Without objection by the Government,  
23 the Court will accept Professor Leo's testimony in the  
24 areas of interrogating techniques, psychological coercion  
25 and involuntary confession.

1                   You made proceed, Ms. Sison.

2                   MS. SISON: Thank you.

3 BY MS. SISON:

4           **Q.**       Can you give us a brief history of the police  
5 interrogation methods in the United States?

6           **A.**       Very briefly, the old method of third degree,  
7 physical coercion, was very common in the early part of the  
8 20th century through the 1930s and it was effectively  
9 released out and replaced by, with some exceptions,  
10 psychological interrogation methods in the 1940s and since  
11 the 1940s has been primarily psychological.

12                   So police are now trained in psychological  
13 approaches to interviewing and interrogation. In the 1940s,  
14 police investigators started writing manuals and later put  
15 on training courses across the country and that has  
16 continued to develop to this day.

17           **Q.**       When you said "third degree," I imagine you mean  
18 some sort of physical coercion?

19           **A.**       Correct. Primarily physical coercion, sometimes  
20 brutal physical coercion, often combined with psychological  
21 coercion and duress as well.

22           **Q.**       And, so, as the method developed, it became less  
23 that and more psychological?

24           **A.**       Correct.

25           **Q.**       And from what you said, it sounds like it's

1 primarily psychological?

2 **A.** I think with rare exception, correct, that it's  
3 understood that interrogation is psychological and there's  
4 not supposed to be any physical aspects to the police  
5 interrogation anymore. And, so, when we read about cases of  
6 physically coercing interrogation, it's usually exceptional,  
7 outside of Chicago, it's usually just, you know, one off  
8 kind of thing.

9 **Q.** And you're talking about what they call bad  
10 cops?

11 **A.** Correct, yeah.

12 **Q.** And, so, when you say it's the exception, that's  
13 not how interrogation techniques are being taught?

14 **A.** Correct.

15 **Q.** Now what's the difference between an interview  
16 and an interrogation?

17 **A.** So police make this distinction going back to  
18 the 1940s. Interviewing -- they are both forms of getting  
19 information in the end but they are very different.  
20 Sometimes they are used dishonestly, but they are not the  
21 same thing. The idea behind interviewing is it occurs in  
22 the earlier stage of investigation. The interviewer  
23 is typically interviewing victims, witnesses, potential  
24 suspects. The idea is to ask open-ended questions, not to  
25 be accusatory, not to be suggestive, not to be leading, to

1 let the person be interviewed do most of the talking and,  
2 ultimately, the goal is to advance the investigation, get  
3 the truth, develop a base theory of why did that particular  
4 crime occur.

5 An interrogation is different because normally  
6 you interrogate suspects. The idea, at least in police  
7 training, is you should prefer investigation before you have  
8 interrogation. So interrogation would not occur early in  
9 the process, it shouldn't be a fishing expedition, it should  
10 be solidly based on evidence prior to the interrogation.  
11 And police are trained primarily in America only interrogate  
12 somebody once you concluded that they have committed a  
13 crime, normally, in the investigator's mind.

14 The interrogation involves specialized  
15 techniques. These techniques are based on pressure and  
16 persuasion, psychological techniques. It's different from  
17 interviewing in that the interrogator is trained to dominate  
18 the conversation until you get the interviewee or, I should  
19 say, the suspect to start making incriminating statements.  
20 The goal is ultimately to remove the suspect from expected  
21 or anticipated denial to admission, ideally a narrative  
22 confession, that can then be used to help prosecution  
23 convict the presumed guilty subject.

24 So interrogation -- interview and interrogation  
25 are very different in terms of the assumptions, the point in



1 the process where they occur, the person that is interviewed  
2 and then the techniques of interviewing persons versus  
3 techniques of interrogation as well as the goal of  
4 interrogation versus interview.

5 Q. Now, do police not -- talking about tribal  
6 police or even the police officers, special agents, do they  
7 receive any kind of training in interviewing versus  
8 interrogation?

9 A. Typically, it's interview above interrogation.  
10 I think interviewing is more straightforward and typically  
11 more mistakes, so police, in their courses, I've taken many  
12 of them, I've read all the manuals and written about this,  
13 in the courses, typically interviewing is a small portion  
14 and it's primarily about interrogation, how to effectively  
15 interrogate, what techniques you use sometimes  
16 differentiating by types of crime, things to learn about the  
17 law and avoid.

18 So they are trained to do both, but typically  
19 not separately, typically together in like a 3-day or 1-day  
20 or 4-day seminar.

21 Q. So, you said you took some of these courses. I  
22 mean, when somebody is teaching police, are they making a  
23 distinction by saying this is an interview technique, this  
24 is an interrogation technique?

25 A. Yes, but, typically, they might start with

1 interview, talking a little bit about interviewing, and then  
2 interrogation when it's clear -- move to interrogation, it's  
3 clear that's what they are discussing. So, typically, it  
4 wouldn't be the case that we were talking about approaches  
5 or methods, they would say this is interview and that's  
6 interrogation; it would be more of a move from here's the  
7 interviewing segment to now we're going to the interrogation  
8 segment and different techniques would be discussed in both.

9 **Q.** Is there a leading manual, training manual for  
10 interrogation?

11 **A.** So the leading manual is called the Reid Manual,  
12 R-E-I-D, and it goes back to the 1940s. There's a firm in  
13 Chicago, Reid & Associates, that first produced that manual  
14 and have continued to write updates and put on training all  
15 across the country and sort of dominates the field of police  
16 interviewing and interrogation, so much so that what they  
17 call the method of interrogation, the Reid technique or the  
18 Reid method, is pretty much synonymous with how American  
19 police conduct these interrogations.

20 So their book is called the bible of  
21 interrogation, but even training forces or training firms  
22 that don't explicitly use that book or don't exclusively  
23 call it the Reid method pretty much derive what they do from  
24 the Reid method of interrogation. So it's synonymous for  
25 the most part with American-style police interrogation.

1           **Q.**       And, so, you've heard Investigator Iadonisi and  
2           Investigator Cable make a reference to Reid. Is that what  
3           you're referring to as well?

4           **A.**       Correct. And they put on introductory  
5           interviewing interrogation training courses as well,  
6           interviewing courses.

7           **Q.**       And are there situations where someone takes the  
8           Reid course and try to teach it to another person without  
9           calling it Reid, does that ever happen?

10          **A.**       Yes, it's permeated the culture of police  
11          investigation. And also the Reid courses are quite  
12          expensive and, so, sometimes departments, to save money,  
13          will send someone to one of those courses, maybe the  
14          in-house -- somebody who is an in-house experienced  
15          detective, and then that person will come back, or maybe two  
16          people, and teach a version of the course to the detectives  
17          of that department.

18          **Q.**       Do police typically receive training in  
19          psychological interrogation methods and techniques?

20          **A.**       Yes. So getting statements and confessions is  
21          very important in solving crimes and the assumption is  
22          that it's not -- and it's a correct assumption, it's never  
23          in somebody's self-interest to confess, therefore, it may be  
24          difficult to get confessions and statements, and good  
25          interrogators are not born, they are trained and learn it.

1        So the point of interrogation, interview and interrogation  
2        training, is to make police better, learning the collective  
3        wisdom and psychology over the last 75 years, to get better  
4        at eliciting the kind of evidence that may be difficult to  
5        elicit to solve crimes and prosecute people.

6            **Q.**        And are they trained to investigate before they  
7        interrogate?

8            **A.**        So, you know, I was referring to that indirectly  
9        earlier. It's one of the -- it's kind of a mantra of the  
10       Reid method in particular. So the idea is that when you  
11       subject somebody to an interrogation, you want to have a  
12       basis for that because it involves pressure. You wouldn't  
13       start an investigation with an interrogation. As I  
14       mentioned earlier, police trained in the Reid method only to  
15       interrogate once they've concluded that the person committed  
16       a crime or, in their mind, it's reasonably likely that the  
17       person committed the crime.

18           **Q.**        And, so, why do they receive -- why do police  
19       receive training in these interrogation methods?

20           **A.**        Well, an interview will be more effective in  
21       eliciting this kind of evidence which can be difficult to  
22       elicit. I think also there is always or almost always a  
23       legal segment to it, typically, at the end. So not only to  
24       learn the methods that would make you more effective at  
25       eliciting this type of evidence but also to learn where the

1        legal lines are so that those lines aren't crossed.

2                    And police also know, for example, about Miranda  
3        and what Miranda requires as well as other areas of law that  
4        might be relevant to interrogation as well as best  
5        practices, when to do and what not to do.

6            **Q.**        Are these interrogation methods, the  
7        psychological ones, are they beyond common knowledge and  
8        experience?

9            **A.**        They are for a few reasons. Most people would  
10       not have had the experience of being interrogated, and even  
11       if they had the experience of being interrogated, they  
12       typically wouldn't be able to identify the techniques by  
13       name. Most people haven't read the social science research  
14       on these type of techniques, are not familiar with the  
15       psychology of these techniques.

16                    So they are not something that are typically  
17       part of the daily experience or common experience, I should  
18       say, of suspects who are being interrogated and even  
19       criminal justice professionals who might be interrogators or  
20       evaluate the work of police in courtrooms typically haven't  
21       read the research and couldn't really talk about what the  
22       techniques are, how they are designed to work or what the  
23       research shows about their effect.

24            **Q.**        So is there a scientific discipline that  
25       carefully studies police interrogation methods and

1 confessions?

2           **A.**       So it's primarily the field of psychology which  
3 is divided into a number of subfields. The primary subfield  
4 of the discipline of psychology is social psychology, at  
5 least the one that studies this. Social psychology is the  
6 study, essentially, of the human behavior in social  
7 contexts, particularly with respect to persuasion and  
8 attitudes and beliefs and perceptions and decision-making.

9           So most scholars who study the interrogation  
10 process, methods, confessions are social psychologists.  
11 There are also clinical psychologists who study personality  
12 traits that make people more vulnerable or likely to  
13 confess. And there are also other social scientists,  
14 primarily but not exclusively criminologists, people in the  
15 criminal justice system, typically police and police  
16 investigation, who also have studied police interrogation  
17 and confessions.

18           **Q.**       How far back does the empirical study go?

19           **A.**       Well, it goes back to 1908 and, of course,  
20 empirical means coming up with the data, not just talking  
21 about off the top of your head or philosophizing, but even  
22 though it goes back to 1908, I would say the modern study  
23 with the modern social scientific sophisticated research  
24 methods begins in the early 1980s.

25           **Q.**       And is that generally accepted within that

1 relevant scientific community?

2 **A.** Yes.

3 **Q.** And what are indicia that are generally accepted  
4 within this scientific community?

5 **A.** Well, I guess first would be peer-reviewed  
6 publications. There's hundreds of thousands of those.  
7 Second would be that there are generally accepted methods  
8 for gathering data and public publishing in the discipline.  
9 Usually researchers in the social sciences are trained, not  
10 only substantively in the area but also methodologically,  
11 different ways of gathering data and executing basically  
12 empirical research. That's also checked by the peer review  
13 process which is another indicia of generally accepted  
14 field. And I mentioned earlier encyclopedias, that when you  
15 break down the subject matter discipline typically include  
16 interrogation, confession, in psychology.

17 At some point, when a field becomes of a  
18 particular size, measured by a number of publications and  
19 number of researchers contributing to it, textbooks usually  
20 emerge to summarize that for people who are generalists who  
21 are not experts in that subfield and that's also happening  
22 in this area of research.

23 So, whether it's peer reviewed, number of  
24 qualifications, how far they go back, the development of the  
25 field, encyclopedias, specialized textbooks, there's no

1 dispute that this is a generally accepted area within social  
2 science, but particularly within the discipline of  
3 psychology and social and clinical psychology in particular.

4 **Q.** So what's the goal of police interrogation then?

5 **A.** Well, the primary goal of police interrogation  
6 is to get an incriminating statement, ideally, a narrative  
7 confession from somebody who has been presumed guilty of  
8 committing a crime and, ideally, truthful and verifiable and  
9 accurate incriminating statement for full confession.

10 **Q.** And, so, what are the main techniques of  
11 interrogation and how does it work as a psychological  
12 process?

13 **A.** So I think there's two questions there. The  
14 core interrogation is half a dozen or so categories. So  
15 there are hundreds of pages of interrogation training  
16 manuals and dozens of techniques, but at its core, what  
17 interrogation -- the main techniques of interrogation would  
18 be isolating somebody, which is why typically they are put  
19 in the interrogation rooms. Developing rapport typically  
20 prior to the giving of Miranda warnings but sometimes  
21 through an interview as it becomes an interrogation.  
22 Accusing a suspect of committing the crime. Accusing the  
23 suspect of lying when they denied committing the crime.

24 As the suspect continues to deny, challenges  
25 those denials, attacking the denials as illogical,



1 implausible, inconsistent with the detective's superior  
2 knowledge or experience. Confronting the suspect with  
3 alleged or real evidence linking them to the allegations.  
4 So that they might have true and accurate evidence, they  
5 might have circumstantial or ambiguous evidence, and they  
6 are allowed to make up or pretend they have evidence, tell a  
7 suspect they have evidence that doesn't exist and sometimes  
8 exaggerate existing evidence. So that's a technique.

9 Another technique is putting pressure on a  
10 suspect. There's a variety of ways in which police can do  
11 that. Sometimes they raise their voices, sometimes they  
12 don't. Sometimes they move closer. Sometimes they tell a  
13 suspect it's now or never, this is your only opportunity for  
14 me to help you or we're going to be here as long as it  
15 takes. There's a variety of ways in which they can put  
16 pressure on a suspect. The Reid people talk about  
17 increasing the anxiety of suspects and that can happen  
18 through a variety of ways of just putting personal pressure  
19 on the suspect.

20 And then I would say some form of what we call  
21 inducements or incentives where police try to persuade a  
22 subject it's in their self-interest if they stop denying and  
23 start admitting. They might make moral appeals. They might  
24 make psychological appeals. They might be appeals to how a  
25 suspect's case is going to unfold in the legal system and

1       why they would be better off if they stopped lying and  
2       started admitting.

3               Sometimes what happens in these inducements or  
4       incentives is the police will come up with two scenarios,  
5       sort of a good scenario and a bad scenario, but they don't  
6       really call it this in police training, they call it themes  
7       and the alternative question.

8               And, so, for example, a homicide case, they  
9       might talk about -- the police might try to convince the  
10      suspect that it was self-defense or just an accident. That  
11      would be the good scenario because it conveys mitigation of  
12      consequences or blameworthiness. If it was just an accident  
13      or a person was killed in self-defense and if the person won  
14      confesses, the idea is they could confess to that, but if  
15      they continue to deny, the people will impute or attribute  
16      to them the bad scenario which would be pre-medicated  
17      potentially, cold-blooded planned murder.

18              So sometimes these appeals to self-interest will  
19      be explicit. Sometimes they will be psychological, moral,  
20      legal, sometimes they would be in the form of sort of these  
21      good/bad scenarios that are designed to get the suspect to  
22      admit to the underlying crime.

23              Q.       So you're talking about a number of different  
24      types of techniques and they don't necessarily use all of  
25      them, is that correct?

1           **A.**       Correct. They don't necessarily use all of them  
2           and a lot of times what they do is variations on a  
3           particular technique and repetition of particular  
4           techniques.

5           The psychology, which is the second part of the  
6           question, is -- trying to be very brief here -- to convince  
7           the person they are caught, they are trapped, all the  
8           evidence establishes their guilt, there's no doubt in the  
9           investigator's mind. Nobody is going to believe their  
10          denials, the jig is up and, given that fact, it's in their  
11          best interest to stop denying and start admitting.

12          So that's the psychology of interrogation in a  
13          nutshell. It's really sort of carrots and sticks and  
14          motivating somebody who is -- sticks and carrots, motivating  
15          somebody to see it as in their best interest, given their --  
16          given what the interrogator is representing as the facts and  
17          the inevitability of what's going to happen in the case, it  
18          makes sense for them to stop denying and start agreeing and  
19          admitting.

20          **Q.**       So I take it in order to do that they have to  
21          assess the person that they are interrogating, is that  
22          right?

23          **A.**       Well, they are trained to assess people as part  
24          of the training and then to assess what techniques they  
25          should use after having done what the Reid manual versus

1 actual analysis, investigation and analysis.

2 Q. So, when you say psychological coercion, you're  
3 talking about the methods that are being used to get that  
4 person to do something that they normally would not or is  
5 that just too simple?

6 A. Well, I would say yes with a qualification. So  
7 I would say to the Reid people and police interrogation  
8 trainers they always look to the law. So they are trained  
9 in coercion, they are really trained in legal coercion based  
10 on their understanding of the case law. Here's what the  
11 court has said is admissible and leads to involuntary  
12 confessions, here's where we draw the line.

13 To social science researchers, we're not -- you  
14 know, the law is interesting to us, but we're just  
15 interested in our theories and in our settings and when we  
16 mean by psychological coercion. We do not regard  
17 interrogation as inherently coercive nor do we regard all or  
18 even most techniques as, by themselves, psychologically  
19 coercive.

20 What we mean by psychological coercion is that  
21 cumulatively the interrogation process has caused somebody  
22 to give up and perceive they have no meaningful choice,  
23 which is similar to the idea of just perceiving there's no  
24 way out unless you give the interrogators what they want.  
25 Sometimes we refer to particular techniques as

1       psychologically coercive like threats or promises or certain  
2       deprivations just because they tend to be so potent when  
3       used that they have effect of overbearing somebody's ability  
4       to fully choose to participate in the interrogation.

5           **Q.**       Now, are there some individuals that are more  
6       vulnerable to psychological coercion?

7           **A.**       There are, yes.

8           **Q.**       And can you describe that for us?

9           **A.**       Sure. So very quickly, so this is the focus  
10      largely of clinical psychologists, although this is a part  
11      of a body of research that anybody in this area would be  
12      familiar with. So, generally, there are three, maybe four,  
13      groups of individuals that we focus on. One would be  
14      juveniles, people who are younger, for a lot of reasons,  
15      particularly having to do with the development of the brain  
16      and what's called psychosocial maturity or immaturity, are  
17      more vulnerable. Tend to be more kid-like and impulsive and  
18      easier to lead and manipulate.

19                   Now we used to talk about people up to the age  
20      of 17 or 15 or 14 or under. There's been a lot of research  
21      in the last decade about how the brain continues to develop  
22      to the age of 25 and, so, some of that psychological --  
23      social psychosocial maturity, impulsive decision-making kind  
24      of, you know, is a continuum, continues beyond the age of  
25      18, but that's one group.

1           And they are disproportionately represented in  
2     the universe of false confessors as are other groups.  
3     People with cognitive limitations, low IQ, low intellectual  
4     functioning, this group of people used to be described as  
5     mentally retarded. That's not considered a term anybody, so  
6     they're often described as intellectually disabled and the  
7     definition of that is IQ of 70 or below, but IQ -- maybe 1  
8     to 2 percent of the population would have that. IQ is a  
9     continuum, so, typically, this group of people who are in  
10    the low level cognitive or intellectual function, some of  
11    them might be over the 70 threshold, typically not much. So  
12    that's second.

13           Third group is people who are mentally ill,  
14    particularly certain types of mental illness that are  
15    sometimes referred to or described as reality monitoring  
16    disorders where people are delusional, might be more easy to  
17    influence to make or to agree to confessions.

18           And then finally I would say that, even those  
19    are the three groups we tend to focus on as highly  
20    susceptible to make or agree to a false confession, there  
21    are mentally normal adults in the population who are highly  
22    suggestible or highly confined and, thus, more vulnerable to  
23    making or agreeing to a false confession. Clinical  
24    psychologists had to write tests to study that and sometimes  
25    there are people with high IQs, high social status, a lot of

1 education, and sometimes not.

2 There are also cultural groups that sometimes  
3 tend to be more vulnerable. So, for example, people from  
4 Central and South America, often from countries that torture  
5 is common, police torture as well as sometimes Asian  
6 societies tend to be more vulnerable and describe that  
7 vulnerability as fear of police torture or police abuse  
8 because of what happens in their home countries.

9 There's also some research and a lot of  
10 discussion about Native Americans being more vulnerable to  
11 interrogation and confession because of cultural personality  
12 traits that sometimes go with that culture or passivity,  
13 resignation. So that sometimes is discussed also as an  
14 ability to coerce your false confession in the research.

15 **Q.** And you could still provide a false confession  
16 even if you don't belong to one of these groups, is that  
17 right?

18 **A.** Correct. Not only that but most of the  
19 documented false confessions, more than 50 percent, would be  
20 from mentally normal adults. When you talk about those  
21 groups being unusually susceptible, it's because they are  
22 disproportionately represented in the known universe of  
23 proven false confessions and because there's a lot of  
24 research now why they are so easily led and manipulated and  
25 susceptible to interpersonal pressure.

1           **Q.**       Now, Dr. Leo, you talked about inducements.  
2       Would that include promises or is that something totally  
3       different?

4           **A.**       No, that would include promises. To social  
5       psychologists, the term "promises," there should be context  
6       for understanding that. So, in social psychology, which  
7       again is about the study of perception and attitudes and  
8       decision-making and behavior, a person's perception is their  
9       reality. So we're interested in what people perceive or  
10      understand to constitute a promise and how that affects  
11      their behavior or a threat, particularly in interrogations.  
12      So a suggestion, an implication might be perceived as, thus  
13      considered, a promise even if it's not a literal quid pro  
14      quo, if you do X then Y will happen.

15                   So we sometimes will talk about implied promises  
16      in interrogation because the interrogator is in the  
17      situation where they have to persuade somebody that it's in  
18      their best interest to make a confession which many suspects  
19      know or believe is not in their best interest. And, so,  
20      they have to use inducements or incentives to suggest why a  
21      suspect should confess and stop denying, and sometimes those  
22      involve suggestions or implications or maybe explicit  
23      statements about the benefits that they will receive or lead  
24      them to believe what they will receive in return for  
25      agreeing to confess.



1           **Q.**       It doesn't necessarily have to be express such  
2 as "I'm going to not arrest you"?

3           **A.**       Correct. That might be a more explicit  
4 statement than suggesting or promising the benefit in  
5 exchange for confessing than, typically, most promises and  
6 threats in interrogation are implied by context and they are  
7 not that explicit, but sometimes that happens, too.

8           **Q.**       So, in addition to promises, can there also be  
9 threats?

10          **A.**       Yes. And that's two sides of same coin. So if  
11 there is suggested benefit or promise if the suspect stops  
12 denying and starts admitting, you'll go home, then the  
13 implication, if it's not explicitly stated, is if you don't  
14 stop denying and start admitting you won't go home. So if  
15 you have explicit conversation with an implied threat, if  
16 you had an explicit threat with an implied promise, then  
17 they are two sides of same coin. Where there's one, there's  
18 always the other, even if it's just implied by the absence  
19 of agreeing to what's being suggested.

20          **Q.**       And, so, threats don't necessarily have to be  
21 something physical?

22          **A.**       Correct. And most of the time, they wouldn't be  
23 physical, yes.

24          **Q.**       Okay. Can you describe what the  
25 "maximum/minimization technique" is?

1           **A.**       So, unfortunately, there's a lot of jargons and  
2       I didn't create these terms, but it's a simple idea and, in  
3       a way, I've kind of alluded to that without saying it  
4       explicitly. So the idea is when I was saying the good  
5       choice/bad choice and there were two scenarios, that's  
6       another way of describing what the research sometimes calls  
7       minimization and maximization.

8                   And, again, the police training manual will talk  
9       about this in different terms, but the idea is that you  
10      conjure up a scenario that minimizes the suspect's  
11      culpability and blameworthiness and consequences he or she  
12      will face if they agree that they committed the underlying  
13      act that they are being accused of committing.

14                  Homicide, for example, this was self-defense,  
15      they were coming at you, it was an accident, you didn't mean  
16      to do it or this was spur of the moment bad judgment or you  
17      were provoked, and the idea is that if they go with that  
18      explanation, it will minimize how third parties, the victim  
19      or the jurors in a criminal case, perceive the  
20      blameworthiness, the culpability and, by implication,  
21      sometimes explicit, the consequences that will happen, which  
22      is the prosecution's decision to charge, what to charge or  
23      what punishment they will receive.

24                  So minimization, minimize culpability of  
25      consequences, but get the suspect to admit to the underlying

1 act. Yes, I did X, but give them that narrative if they  
2 confess.

3 Then maximization is the bad scenario, where if  
4 they continue to deny, the suggestion is things will go  
5 worse for them, they will be perceived as more blameworthy,  
6 more culpable, and the implication often is consequences,  
7 again, how it's in the system, prosecutors, judges, jurors  
8 will treat decisions that those actors will make will be  
9 worse. So, again, an example of homicide would be the idea,  
10 if you continue to deny, people like the prosecutor or the  
11 jury will think this was pre-meditated, intentional,  
12 cold-blooded, and then that narrative gets wrapped around  
13 the accusation that you did it.

14 And, so, minimization/maximization techniques is  
15 a form of inducement, it's suggesting the benefits if you --  
16 beneficial narrative if you stop denying and admit to the  
17 act and a more adverse detrimental narrative to what will  
18 occur if you continue to deny that you committed any of the  
19 acts.

20 **Q.** Is there an implication, then, of some sort of  
21 leniency if they go along with what the interrogator is  
22 looking for with that method?

23 **A.** They are often -- it's not always, but there  
24 often is, yes.

25 **Q.** And if you hadn't spoken about this, the term

1 "pragmatic implication," is that related or is that  
2 something different?

3 **A.** So it is related. Again, I apologize for the  
4 jargon. This one comes from the field of linguistics. In  
5 the field of linguistics, researchers are always trying to  
6 understand how people infer meaning from context, and when  
7 we communicate with one another, we imply certain things or  
8 communicate in shorthand, literally say everything we mean.

9 And, so, the context of interrogation, pragmatic  
10 implication means what are the messages that are implied and  
11 understood through context of what's being stated. And  
12 we're interested in this because sometimes inducements or  
13 promises or threats are implied by context without being  
14 specifically stated and that can have the same effect on a  
15 suspect if he or she understands that there's a very  
16 negative consequence that will occur if they continue to  
17 deny which might be determined as a threat, or a beneficial  
18 consequence if they stopped denying and started to  
19 admitting, and that is interpreted or understood as the  
20 equivalent, essentially, of a promise or a suggestion of  
21 benefit or leniency, immunity, making something go away if  
22 they stopped denying and started admitting.

23 **Q.** So have the social scientists been able to study  
24 the effect of these psychological interrogation techniques?

25 **A.** That's one of the areas we try to study. We

1 studied it in multiple ways through actual live  
2 interrogations or recorded interrogations, through  
3 interviewing suspects and in our experiments. Some  
4 experiments recreate interrogation situations, true and  
5 false confession, using some of these methods. Artificially  
6 in laboratory environments because, for ethical reasons, we  
7 can't accuse people of rape or murder, for example, so lower  
8 level transgressions.

9 And then sometimes what we do is we take actual  
10 transcripts and observe techniques and then do randomized or  
11 controlled studies where one group reads a transcript  
12 involving these particular techniques, another reads a  
13 transcript involving some or all of the same techniques and  
14 we try to get at how -- what their understanding is of the  
15 techniques, what messages they learn from the use of those  
16 methods.

17 **Q.** Is interrogation designed to be stress inducing  
18 and stressful?

19 **A.** Yeah. Well, police interrogation is designed to  
20 be stress inducing within the limits of the law. So, as I  
21 mentioned earlier, one of the things the Reid method talks  
22 about when they talk about the psychology of interrogation  
23 is you raise the suspect's anxiety. And, so, it's an  
24 unpleasant stressful process, but the Reid trainers and, you  
25 know, most police would say yes but within the laws. So the

1 law permits police to exercise a certain amount of stress,  
2 to induce certain stress.

3 MS. SISON: I'm sorry, your Honor.

4 MR. EASON: Your Honor, I'm sorry. My agents  
5 are asking if they can be released. I don't intend to  
6 re-call them, but I just wanted to make sure that was all  
7 right with the Court before I let them go.

8 THE COURT: Any objection, Ms. Sison?

9 MS. SISON: No, none at all, your Honor.

10 THE COURT: All right. You may release them.

11 MR. EASON: Thank you, your Honor.

12 BY MS. SISON:

13 Q. So does interrogation necessarily have to have  
14 that use of psychological pressure and manipulation?

15 A. Well, if a suspect makes an admission straight  
16 off, spontaneous admission, then no. If the suspect made an  
17 admission, it would just be who, what, when, where, why type  
18 questions. And sometimes that happens, there's no need for  
19 pressure or persuasion. But to the extent that the suspect  
20 resists, then, yes, some pressure and persuasion is  
21 necessary and that's part of the reason why police are  
22 trained in these accusatory techniques.

23 Remember, at this point, the role is essentially  
24 to get a confession, to move the suspect from the  
25 anticipated denial to the desired admission. The more

1 resistance the suspect puts up in the form of denials, the  
2 more pressure and persuasion will be required by the  
3 detective. And that's why some interrogations last longer  
4 and others are very short because some suspects put up more  
5 resistance and, so, you need to exercise more techniques or  
6 more repetition of techniques, more pressure and more  
7 persuasion.

8 **Q.** So then in an interrogation, is that necessarily  
9 used to get to the truth?

10 **A.** Well, the primary goal is not to get to the  
11 truth, the primary goal is to get an incriminating statement  
12 and, oftentimes, police will elicit statements that are not  
13 fully truthful but incriminating and that can be used  
14 against the suspect by the prosecution.

15 The police will say in the training confession  
16 is the best thing, but the next best thing is a pack of  
17 lies. And what they mean by that is if they can catch a  
18 suspect in a lie, that can be used to incriminate them and  
19 develop a case.

20 Now I'm not saying that police intentionally get  
21 false confessions or false information. I said earlier  
22 that, ideally, they want a truthful confession. What I am  
23 saying is that the primary goal of American police  
24 interrogation is to get incriminating statements that can be  
25 used as evidence in building a case against a suspect who

1       they have concluded is guilty of a crime and that  
2       incriminating evidence can be given to the prosecution to  
3       successfully prosecute a case. That's the primary goal.  
4       Ideally, police would like truthful confessions, I would  
5       say, a secondary goal of interrogation.

6           **Q.**       Do you study psychological coercion?

7           **A.**       I do and, of course, people in my field do.

8           **Q.**       And, so, what is meant by psychological coercion  
9       during interrogation?

10          **A.**       Well, again, certain techniques, making promises  
11       regarding this, inherently are so coercive, so potent, they  
12       are likely to overbear somebody's capacity or perception of  
13       free choice, but more generally, the idea if the  
14       interrogation process cumulatively makes someone perceive  
15       they have no meaningful choice, that they are essentially  
16       being forced to comply or the interrogation will never end  
17       or they won't be able to put an end to it, that's what we  
18       mean by psychological coercion in this context.

19          **Q.**       So what are the risks of using this kind of  
20       interrogation technique?

21          **A.**       Well, again, most interrogations are not  
22       psychological coercion. All those techniques are used  
23       cumulatively as they could be, but there are essentially two  
24       risks. One risk would be that you get false or unreliable  
25       information or confessions, which nobody wants, of course,



1 and a second risk is that you get involuntary statements or  
2 admissions or confessions.

3 Q. The researchers in your field, do they study the  
4 use of trickery and deception in interrogation?

5 A. Yes.

6 Q. And can you tell us more about that?

7 A. Well, it's inherently fascinating and it's a  
8 little counterintuitive in that most people do not know that  
9 police can lie during interrogation and pretend or say they  
10 have evidence that they don't. Fingerprints, we have the  
11 DNA, somebody saw you commit this crime, there are  
12 witnesses, we have surveillance photos, whatever it is,  
13 medical evidence that dispositively shows you did it.

14 So police are permitted in America to make false  
15 representations or exaggerate what they do have falsely. In  
16 the context of police interrogation where we study police  
17 deception, we often primarily what we call false evidence,  
18 what police often call ruses and most people call it lies,  
19 but deception and trickery is a little broader than that.  
20 Part of the psychological police training is to develop a  
21 rapport and convince the suspect that you're there to help  
22 them and that sort of means de-adversarial in the process  
23 and suggesting that you want what's best for the suspect,  
24 you the interrogator, and that can be deceptive as well.

25 So the trickery and deception is not just about

1 particular lies about evidence that doesn't exist or  
2 exaggerating it does exist, but also representing that the  
3 interrogator is there to help the suspect or get the  
4 suspect's best outcome so that would be more trickery, I  
5 suppose.

6 Q. So -- but that's allowed in our American system?

7 A. Correct.

8 Q. And even though it's allowed, does that stop it  
9 from being psychologically coercive?

10 A. We don't regard that technique in and of itself  
11 as psychologically coercive unless the lies, for example,  
12 or, you know, the idea of trying to help a suspect rose to  
13 the level of a promise or a threat, but it can contribute  
14 cumulatively to psychological coercion. The use of it can  
15 make other techniques like promises and threats more  
16 coercive if the examination becomes coercive. So that would  
17 be the concern of researchers, that it contributes -- could  
18 contribute to coercion or make interrogations otherwise  
19 psychologically coercive more coercive.

20 Q. Dr. Leo, when I did retain you as a consultant?

21 A. I think in March or April. I could be wrong.

22 Q. So sometime a few months from this date?

23 A. Correct.

24 Q. What materials did I provide for you to review?

25 A. You provided me with some discovery materials.

1 I believe you provided me the indictment or the Information.  
2 You provided me the videotaped interrogation of Mr. Jumper.  
3 You provided the transcript of that videotaped  
4 interrogation. You also provided me a transcript, I  
5 believe, of the videotape, but I haven't looked at this in a  
6 long time. It may have been just a transcript of the  
7 forensic interview of the alleged victim.

8 Q. Okay. And you've been able to watch the  
9 testimony, listen to the testimony here and review those  
10 items. Can you describe what various interrogation  
11 techniques did you see the detectives use in this particular  
12 case?

13 A. Sure. Of course, there was bringing Mr. Jumper  
14 to the police station. I think there was rapport building,  
15 especially early on. At some point, there was accusations.  
16 I think this was what we would call guilt presumptive  
17 interrogation. Police, when they start accusing Mr. Jumper  
18 and telling him what they believed he did, were not trying  
19 to get his side of the story so much as trying to get him to  
20 admit essentially to the alleged victim's account of what  
21 she said occurred.

22 And, so, they were trying to get him to  
23 incriminate himself in a way that was consistent with her  
24 accusations. They were suggesting what he did and they were  
25 accusing him of doing certain things that came from her

1       allegations. When he denied doing that, they were  
2       challenging his denials or attacking his denials, though no  
3       one raised their voice.

4               They were confronting him with alleged evidence,  
5       ambiguous case evidence that did exist as well as  
6       exaggerating the evidence, and I believe at least a couple  
7       of examples of suggesting or implying false or nonexistent  
8       evidence.

9               They were also using sort of minimization and  
10       maximization technique where there were two scenarios, they  
11       weren't always fully spelled out, but they were referred to  
12       multiple times. You did this accidentally, she sat on your  
13       lap or came on to you, it was digital penetration, it was  
14       not penile penetration, you're not -- you're not a rapist.  
15       The implication if you denied that that people might  
16       perceive that, but if you admitted that, it could be  
17       minimized, that he was drunk or she sat on his lap or that  
18       he did this accidentally.

19               There was also an issue of that  
20       minimization/maximization, bad/good scenario. He could help  
21       himself or get help, fix the situation if he -- or be able  
22       to fix the situation if he stopped denying and started  
23       admitting. And, so, like maximization and minimization or  
24       good scenario/bad scenario, that would be sort of the  
25       inducement category of interrogation techniques, suggesting

1 or implying real world benefits to stopping denying and  
2 start admitting.

3 Q. So you're basically saying that they employed a  
4 number of the interrogation techniques that you discussed  
5 previously?

6 A. Correct.

7 Q. And, so, one of them would be the presumption of  
8 guilt and the investigative bias just based on their initial  
9 contact with him and their research -- I call research prior  
10 to picking him up?

11 A. Yeah. I do think this was the presumptive. I  
12 don't think -- I think they started that interrogation with  
13 the goal of getting him to confess to what the alleged  
14 victim was alleging, not with the goal of entertaining his  
15 denials and the interrogation was designed to continue until  
16 they got that admission of guilt.

17 Q. So it didn't matter how many times he denied  
18 anything had happened, that wasn't the ultimate outcome, it  
19 was to get him to confess to something?

20 A. Correct. You know, I would say it didn't matter  
21 how many times he denied because they weren't crediting his  
22 denials. The plan, whether implicit or explicit, was to get  
23 him to confess to overcome his denials. Obviously, there  
24 would have been some time, I don't know, four hours, six  
25 hours, eight hours where I'm sure they would have just cut

1       it off. So, you know, there could have come a time when  
2       they just gave up on overcoming his denials, but I don't  
3       think his denials mattered in the sense that I don't think  
4       they would have been able to evaluate them. Their goal was  
5       to overcome, break down those denials in order to get  
6       incriminating testimony or evidence that could be used to  
7       prosecute him.

8           **Q.**       So an example of that presumption of his guilt  
9       would be statements such as Detective Iadonisi said "because  
10      it happened," would that be an example?

11          **A.**       Yes. There were a number of places where either  
12      Detective Cable or Iadonisi were basically telling him what  
13      he did, telling him that it happened and explicitly telling  
14      him he did it or implying that he did it. So they were  
15      presuming his guilt with the role of getting a confession,  
16      exactly how the Reid method and other American methods based  
17      on the training that police do.

18          **Q.**       So also a statement, and you heard this from  
19      Detective Lambert, I'm not going to go around -- "I'm not  
20      going to beat around the bush, it happened"?

21          **A.**       Correct. And, so, I don't think they wavered at  
22      all from their belief that it happened and that Mr. Jumper  
23      did it and he did it exactly the way it was alleged by the  
24      alleged victim and that they needed him to stop denying and  
25      start agreeing or admitting to their accusations and the

1       alleged victim's accusations.

2           **Q.**       And you also talk about the minimization and the  
3       maximization. Would that include them suggesting it was an  
4       accidental touch?

5           **A.**       Correct. And the idea is, which is more than  
6       one occasion, I had some comments about this in various  
7       places, about the idea is that we all perceive people who do  
8       something accidentally as less culpable, less blameworthy  
9       and, of course, that's redefined in the law as well, where  
10      there was an intent element, a mitigating, unintentional or  
11      accidental.

12                    So that is a common minimization technique and  
13      the problem with that technique is it can shade into a  
14      suggestion of leniency or immunity or reduced culpability in  
15      exchange for confession. So that was used at least several  
16      times in this interrogation. Even though I think it's clear  
17      from what the detectives said eventually in the  
18      interrogation that they didn't believe it was intentional,  
19      so this would be an example of using a technique that is not  
20      really designed to get truthful information or information  
21      they regard as truthful but is designed to get the suspect  
22      to incriminate himself.

23           **Q.**       So a promise what -- part of the testimony was  
24      we never promised to drop the charges or we never promised  
25      not to arrest. Would that be included in this particular

1       circumstance as an implied promise to -- I should say you  
2       don't have to promise something explicitly in order to make  
3       a promise?

4           **A.**       Correct. So I've attended these training  
5       classes, read the manuals, interviewed lots of police  
6       trainers over the years. They rarely read the social  
7       psychological research. They are only trained in promises  
8       and threats. Typically, you know, briefly and kind of  
9       extreme or explicit examples of that in case law. To a  
10      social psychologist, as I mentioned earlier, the problem of  
11      the minimization technique is it can imply leniency or  
12      immunity if you stopped and started confessing.

13                   In research, published research, the accident  
14      scenario technique, just did this accidentally, people are  
15      inferring the message that if I admit to or someone admits  
16      to do this accidentally, they will receive less punishment,  
17      less -- the consequences will be mitigated or less harsh.  
18      That is the functional equivalent of a promise of leniency  
19      or a promise of mitigating consequences if that's how the  
20      person is perceiving it.

21                   When interrogators say the only way we can help  
22      you or fix this or we only want if you say X or Y or agree  
23      this happened, they are conveying that benefit in exchange  
24      for confessing. And the way they say it can suggest, again,  
25      leniency or escape from criminal prosecution. When an



1       interrogator, for example, says we can fix this, the  
2       suspects and subjects in the research infer sometimes that  
3       fixing it means making it go away so that it doesn't come  
4       back to haunt a suspect or there's no material consequence  
5       to it.

6           **Q.**       What about the -- all officers testifying that  
7       they never threatened him, and when asked what do you mean  
8       by that, well, we never told him we were going to do  
9       something to him physically, that was part of this  
10      interrogation. How does that play into it?

11          **A.**       Well, I guess, with all due respect to the  
12      officers, I would say they are not experts on what  
13      constitutes promises and threats. Typically, they aren't  
14      doing research on how people perceive things to be a promise  
15      and threats implicitly. Because, as I said earlier, every  
16      promise, whether implied or not, implies a corresponding  
17      threat. Promise if you -- a suggestion if you do confess,  
18      this outcome will occur, the implication is if you don't, a  
19      worse outcome will occur.

20                    So they may not have intended implied promises  
21      or implied threats and they may not have thought that they  
22      said anything that came close to that, but in my opinion,  
23      the suggestion of how -- suggestion of fixing it, the  
24      repeated references could have just been done accidentally,  
25      the continual playing down of this isn't all about rape or

1 penile penetration, suggested that if you admitted to the  
2 scenario that we're suggesting, minimizing the scenario,  
3 they are suggesting, that he would be less culpable and face  
4 less consequences and, therefore, is the functional  
5 equivalent of implied promise or implied threat.

6 **Q.** So what happens in a situation like this one  
7 where Mr. Jumper kept denying and I think it went on for  
8 over an hour. Does that play into what happens with the  
9 officers and what they are going to do next?

10 **A.** Yes. So, again, one way of thinking about this  
11 is the investigator's goal is to get the -- they expect the  
12 suspect will deny. They have techniques and experience  
13 of -- the techniques they have learned from experience, some  
14 limited training, to be used to overcome the denials. Some  
15 suspects stop denying early on, others for many hours.

16 The denials can really be seen as sort of an  
17 assertion of a suspect's will not to incriminate themselves,  
18 and the more the suspect denies, the more pressure that the  
19 interrogator brings to bear, amp up the interrogation  
20 pressure and use or repeat interrogation techniques to  
21 overcome the denials, which is language straight out of the  
22 interrogation manuals, to overcome the denials in order to  
23 get to the confession.

24 So more denials, the more amping up the pressure  
25 and techniques to break down and overcome the denials and,

1       so, that is significant in the analysis.

2           **Q.**       So does that include people going in and out of  
3       the room?

4           **A.**       Well, strategically, yes. I mean, there are  
5       multiple interrogators. Sometimes interrogators are either  
6       watching the interrogation or one will be relaying  
7       information to another. Sometimes somebody will come in to  
8       actually get the confession, if nothing else is working and  
9       a new person's approach might be more effective at a certain  
10      point.

11                    So, strategically, yes, I do think that American  
12      police are sensitive to the idea of tag-teaming and, so, you  
13      know, they usually don't put too many interrogators in a  
14      room or interrogate with relays, but sometimes there are  
15      multiple interrogators involved strategically. And  
16      sometimes it changes by gender, one gender is not working,  
17      let's put in another gender. One approach is not working,  
18      let's bring in somebody who maybe has a different approach.

19           **Q.**       So what about when the officers say "after  
20      tonight, we can't help you" or "you've got until today"?

21           **A.**       So one thing that brings to mind is this idea of  
22      pressure. I said earlier one technique of increasing  
23      somebody's anxiety is exerting pressure in a number of  
24      different ways to do that. That we call time pressure, it's  
25      now or never, you can -- we can only help you now if you

1 start denying and confess now. This is your one  
2 opportunity.

3 The other thing that it conveys the idea of  
4 help, again, people often hear, when there is a suggestion  
5 or implication that the officer can help them or the only  
6 way they can get help is if they start denying and start  
7 admitting, that they will get the benefit. And that benefit  
8 may be leniency, immune, maybe this thing goes away. It may  
9 be that the person is punished but punished in a minimal way  
10 if they admit.

11 And, so, the promise, the suggestion of help  
12 oftentimes implies a promise of help or a promise of  
13 leniency or promise of some material benefit, mitigating the  
14 suspect, what will happen to the suspect if he or she stops  
15 denying and starts admitting.

16 **Q.** Can it also work the other way where it seems as  
17 if the options are becoming limited to the person if they  
18 don't participate in letting the officer help them?

19 **A.** Correct. So that's part of what interrogation  
20 is designed to do, is to narrow a suspect's perception of  
21 his or her options and that, in that example, in the  
22 interrogation we're talking about, already we have all this  
23 medical evidence, this happened, the alleged victim was too  
24 detailed, too specific, kids don't make this up, we know it  
25 happened. And, so, if you -- this is your one opportunity

1 for us to help you, and if you don't admit to what they are  
2 calling the truth, then we're not going to be able to help  
3 you, you're not going to get the benefit of that.

4 You could say, just as I've said, that the flip  
5 side of promise is a threat. The implication there is  
6 narrow his options and, thus, he will be seen as more  
7 culpable and the consequences will be worse and the threat  
8 of a worse outcome to him if he doesn't take the opportunity  
9 or what they call an opportunity for them to help him in  
10 this interrogation.

11 **Q.** What do you think of the fact that there were  
12 inconsistencies in what the alleged statement of the child  
13 was?

14 **A.** So it's not my role to say whether something was  
15 a true or false confession, but in our research, we're very  
16 interested in reliability. We have a pure false or  
17 partially false, partially true confession. So we use the  
18 broad category of reliability to refer to a spectrum from  
19 completely true and reliable to completely unreliable and  
20 everything in between.

21 And I mentioned earlier that one of the risks of  
22 coercive interrogations, psychologically coercive  
23 interrogation, is getting unreliable information or  
24 statements or confessions. And there are indicia of that  
25 that you see in true and false confession cases. The

1 suspect doesn't know the details because they weren't at the  
2 crime scene, for example, so they guess correctly to  
3 something that can be guessed, heads up, heads down, easy to  
4 guess, maybe repeat things that they might have been told,  
5 they know somebody was present at the time or suggesting the  
6 information.

7 So absence of personal knowledge, not likely  
8 guessed by chance, would be indicia of false or unreliable  
9 confession. It's not dispositive, but the pattern we see.

10 So, too, with the inconsistencies in -- between  
11 an alleged victim's account and a suspect's confession.  
12 Again, not always, but the idea is that then true and false  
13 confessions, the suspect doesn't know the details because  
14 they didn't commit the crime, they weren't present at the  
15 crime scene. And, so, when they broke him to move to  
16 confess and the police are now pressuring him to provide  
17 those details, they are getting some wrong of the details  
18 because they didn't know the details other than what they  
19 could guess by chance or what they learned from the police  
20 in the interrogation or from other people who were either  
21 present at or knew about the crime.

22 So inconsistent details might be a red flag of  
23 false confession and sometimes those inconsistent details  
24 don't go to culpability. So, you know, they might get  
25 things wrong that don't make them any more or less culpable,

1       they just get them wrong because they don't know.

2           **Q.**       What about one of the techniques that you were  
3       talking about, the false evidence ploy; did you see that  
4       used in this case?

5           **A.**       Yes, I did see that used in this case. There  
6       was repeated references to alleged evidence against  
7       Mr. Jumper. The false evidence, there was some reference on  
8       page 36 of the transcript that I have, about the size --  
9       about the alleged victim known knowing the size of the  
10      penis, and on page 59, about scarring, alleged scarring that  
11      was represented -- both of these were represented as being  
12      evidence that Mr. Jumper had sexually assaulted the alleged  
13      victim.

14                   And also there were repeated references to  
15      medical evidence establishing that he had committed a crime  
16      that was certainly an exaggeration of the evidence, right.  
17      The evidence that the alleged victim was sexually  
18      penetrated, but the fact that there was evidence of that, if  
19      it was does, does not establish that Mr. Jumper is the one  
20      who did it.

21                   And, so, you might recall that exaggerated  
22      evidence in that they were falsely representing to him that  
23      that evidence meant he did it, there's evidence that he did  
24      it even if there was evidence that something occurred, it  
25      wasn't necessarily evidence that he did it.

1 THE COURT: Ms. Sison, it's 1:30 at this moment  
2 here. What's -- how much time do you need to complete  
3 this evidence?

4 MS. SISON: Not more than 10, your Honor, we  
5 should be done. I'm toward the last part of my  
6 questioning.

7 THE COURT: We will go ahead and finish him, and  
8 then we will probably take a break.

9 BY MS. SISON:

10 Q. Dr. Leo, what is police contamination and  
11 scripting?

12 A. So what we mean by police contamination is  
13 leaking or disclosing the details of a crime to the suspect.  
14 Police are trained not to do it, but it happens oftentimes  
15 in interrogations, oftentimes without police intending to do  
16 it or realizing you're doing it. So providing the details  
17 of a crime to the suspect. Interrogation is presumptive and  
18 police presume the person they're interrogating is guilty.  
19 It's also in the false confession cases where the police are  
20 confronting the suspect with details of the crime scene,  
21 here's the photo, you did X or Y, and the suspect is now  
22 learning about it and they don't know the details because  
23 they are falsely assumed to be guilty when they are  
24 innocent, but, so, they are feeding non-public details or  
25 crime details to the suspect. That's what we mean by



1       contamination.

2               By scripting, we mean pressuring the suspect to  
3       accept a theory or narrative of how and why, or how or why,  
4       the alleged crime occurred.

5               **Q.**       So you're talking about feeding that information  
6       to the suspect and that's not something that they can do  
7       themselves?

8               **A.**       Correct. So the police manuals will say, you  
9       know, don't provide non-public details to the suspect, hold  
10      back details, and then when they say I did it, make them  
11      tell you those details that are non-public, not in the case  
12      by chance, which would corroborate the reliability of the  
13      confession.

14              So the police and researchers are in agreement  
15      with this, that the problem with contamination is that when  
16      a suspect is brought in to confess, an innocent suspect, if  
17      they are fed the details, they often will parrot those back.  
18      And then third parties, like judges and jurors, will  
19      attribute, because we all do in society, a detail that is  
20      being more truthful and accurate.

21              So you have lots of examples of proven false  
22      confessions, let's say, by DNA where somebody gives a very  
23      detailed confession and jurors convicted and appellate  
24      courts have held referencing the corroboration that was in  
25      the details, when the only person who knew those details was

1 the true perpetrator and the police. And when confessor is  
2 shown not to have been the true perpetrator, it's clear that  
3 they learned those details from the police and those details  
4 were used to provide illusory or false corroboration of a  
5 confession which contributed to why the jury convicted him.

6 Q. In other words, it affected the voluntariness of  
7 the confession or perception of that?

8 A. Well, yes, it can effect the voluntariness. And  
9 one of the ways in which the scripting can affect the  
10 voluntariness is police will often pressure a suspect to  
11 provide a coherent narrative of why they committed the  
12 crime, a motive, to express remorse, to write an apology  
13 note, to agree that their statements are voluntary, to try  
14 to script a narrative that is believable and voluntary in  
15 order to get a third party to convict, like a jury to  
16 convict and a judge to not rule the confession was coerced  
17 or involuntary.

18 Q. So that was present in this case, in Mr.  
19 Jumper's case?

20 A. The apology note is a technique, yes, and they  
21 asked him to write an apology note.

22 Q. So, in your opinion, was this interrogation  
23 psychologically coercive?

24 A. I would say in my opinion, yes, because of the  
25 minimization/maximization techniques, in particular, the

1 suggestions of help, I should say repeated references to  
2 doing this accidentally, that he would get help and this  
3 would be fixed if he stopped denying and started admitting.

4 And I think that shaded into the suggestions or  
5 implied promises of leniency, the benefit, and that we know  
6 from research often has a psychological coercive effect on  
7 the suspects and increases the risk that they would confess  
8 involuntarily and/or falsely.

9 Q. And, so, in your field of expertise, do  
10 researchers presume that coercive interrogation methods are  
11 meant to produce involuntary confessions?

12 A. Yes, in my field. In hearings like this, we  
13 don't tend to testify that something is involuntary because  
14 involuntary is, of course, a separate legal concept and it's  
15 not within the province of the expert witness to be making  
16 legal judgments in a pretrial hearing.

17 But what we study is psychological coercion, in  
18 particular, psychologically coercive methods or how  
19 interrogation becomes cumulative of psychological coercion,  
20 and when that happens when they interview suspects, they  
21 describe essentially their interrogations or their  
22 statements as being voluntary.

23 MS. SISON: Thank you.

24 Thank you, your Honor. I have no more  
25 questions.

1 THE COURT: Thank you.

2 We're going to take a break until 2:15 when we  
3 come back.

4 Professor Leo, you'll be back on the stand and,  
5 Mr. Eason, you can begin your cross examination.

6 MR. EASON: Thank you, your Honor.

7 THE COURT: All right.

8 (Luncheon recess was taken from [!LUNCH BEGIN]  
9 p.m. to 2:18 p.m.)  
10

11 THE COURT: Professor, if you would come back to  
12 the stand.

13 As he's coming up, I'll let counsel know I have  
14 a matter with the grand jury that will need to be  
15 addressed here after a while. If you're not completed  
16 with this proceeding, I'll need to recess briefly, but we  
17 will see how things are when that need arises.

18 All right. I believe it's the Government's  
19 cross examination.

20 MR. EASON: Yes, your Honor. Thank you.

21 CROSS EXAMINATION

22 BY MR. EASON:

23 Q. Dr. Leo, are you on any type of a time crutch?

24 A. I have a 5:30 flight out of the Asheville  
25 airport.

1           **Q.**       Okay. I will do my best to be direct then.

2                   Dr. Leo, you indicated in your testimony that  
3 everyone is interested in improving the quality of  
4 interrogations from all spectres, correct?

5           **A.**       Correct.

6           **Q.**       And you've, in fact, published papers on how to  
7 best do that, isn't that right?

8           **A.**       Yes.

9           **Q.**       One of your papers is Police Induced  
10 Confessions, Risks and Recommendations, is that correct?

11          **A.**       I think it was Risk Factors and Recommendations.

12          **Q.**       Risk Factors and Recommendations.

13                   And when did you publish that paper?

14          **A.**       2010.

15          **Q.**       And in 2010, you listed several recommendations  
16 that could reduce the risk factors associated with coerced  
17 confessions, isn't that right?

18          **A.**       Correct.

19          **Q.**       One of those recommendations is that interviews  
20 be videotaped, is that correct?

21          **A.**       Yes.

22          **Q.**       And that was done in this case, correct?

23          **A.**       Yes.

24          **Q.**       You also recommended that time in custody be  
25 limited to six hours or below, is that correct?

1           **A.**       I believe so, yes.

2           **Q.**       And in this case, that factor was also observed?

3           **A.**       Correct.

4           **Q.**       In fact, almost all of the risk factors that  
5       you -- or recommendations that you made in that paper to  
6       avoid these types of risk factors, they were pretty closely  
7       adhered to, weren't they?

8           **A.**       Yeah, except for the false evidence and  
9       minimization and implied promises, yes.

10          **Q.**       And, so, other than those, pretty much all of  
11       those recommendations were followed, correct?

12          **A.**       Correct.

13          **Q.**       You said that you had reviewed several documents  
14       as far as this specific case, is that correct?

15          **A.**       Correct.

16          **Q.**       You said that you reviewed, I believe, a  
17       transcript of -- you reviewed the video of the interview  
18       questions, is that right?

19          **A.**       Yes.

20          **Q.**       The transcript of said interview?

21          **A.**       Correct.

22          **Q.**       Also a transcript of the forensic interview?

23          **A.**       Yes.

24          **Q.**       An indictment, is that correct?

25          **A.**       I think so. I think there was an indictment in

1       there or Information.

2           **Q.**       Was there any other paperwork associated with  
3       this case that you reviewed; did you review any of the  
4       motions by either party or responses?

5           **A.**       I think I did, yeah. Give me a moment here.

6                   So there was the Defense motion to suppress  
7       evidence and request for evidentiary hearing, the  
8       Defendant's memorandum in support, and Government's response  
9       to Defense motion to suppress statements. And then there  
10      were also, when I said discovery --

11          **Q.**       Uh-huh.

12          **A.**       -- I think this is primarily the Government's  
13      requirements, 302, of course, that were Bates stamped six  
14      zeros 1 from through six zeros 77.

15          **Q.**       So --

16          **A.**       Maybe I was wrong, maybe there's no indictment  
17      or Information in this.

18          **Q.**       But you did review the Defense's motions prior  
19      to formulating your testimony?

20          **A.**       Prior to the testimony, yes.

21          **Q.**       So isn't that sort of putting the cart before  
22      the horse, to read what they say happened before you had an  
23      opportunity to formulate your own opinion as to what  
24      happened?

25          **A.**       Well, I guess if you assume that, then I -- my

1 opinion is based on what they are saying, yes, but my  
2 opinion was independent of what they were saying.

3 I think I may also have been provided, I don't  
4 remember specifically, but I think I may have been provided  
5 not with the initial documents, in fact, I think there's a  
6 cover letter -- I'd have to dig through, but I think I  
7 wasn't provided with it initially, I think I was provided  
8 with it later after I affirmed my appointment.

9 Q. Okay. You have never actually met the Defendant  
10 in this case, have you?

11 A. Correct.

12 Q. And you never have spoken with him?

13 A. Correct.

14 Q. You never spoken with any family members?

15 A. Correct.

16 Q. To your knowledge, there haven't been any  
17 psychological tests performed on the Defendant that would  
18 indicate that he's -- that he falls into one of the  
19 categories that you identified as being especially  
20 vulnerable to coercive police interrogation tactics?

21 A. I have no reports of psychological testing.  
22 Other than being Native American, I have no information.

23 Q. Okay. I do want to ask specifically Native  
24 Americans, you said that cultural traits of Native Americans  
25 seems to be resigned to be more deferential to police, is



1       that correct?

2           **A.**       There's some writing on that, yes.

3           **Q.**       Some writing on that.

4                   Is that specific to the culture of the Eastern  
5 Band of Cherokee Indians?

6           **A.**       No.

7           **Q.**       Do you know anything specifically about the  
8 cultural approaches of the Eastern Band of Cherokee Indians  
9 vis-à-vis police or persons in authority?

10          **A.**       No.

11          **Q.**       Are you aware that the Eastern Band of Cherokee  
12 Indians are actually the descendents of people who refused  
13 to be forcibly removed from their homelands by the US  
14 Government?

15          **A.**       I don't know the history there.

16          **Q.**       Okay. But you've got no indication that the  
17 Defendant is a juvenile?

18          **A.**       Correct.

19          **Q.**       And no indication that the Defendant suffers  
20 from any type of cognitive limitations or is intellectually  
21 disabled?

22          **A.**       Correct.

23          **Q.**       You have no indication that he's mentally ill?

24          **A.**       No.

25          **Q.**       You've got no reports or psychological

1 evaluations that indicate that he's highly suggestible or  
2 compliant?

3 **A.** Correct.

4 **Q.** And he's not South American or Asian so far as  
5 you're aware?

6 **A.** Correct.

7 **Q.** You used the term "proven false confessions" at  
8 several points in your testimony. Can you elaborate on  
9 that, proven false confessions?

10 **A.** Sure. So it's hard to prove that a confession  
11 is false because you have to prove the negative. And in  
12 1998, I and another scholar coined in term "proven false  
13 confession" where we said you can prove a confession false  
14 to a near reasonable degree of certainty through one of four  
15 criteria. Either you showed no crime occurred and, thus, a  
16 confession to it would be false, or that it was physically  
17 impossible for the confessor to have committed the crime  
18 and, thus, the confession is false, or that there was  
19 dispositive scientific evidence that demonstrated the  
20 confession was false, or that the true perpetrator was  
21 identified and everybody agreed that that person was or  
22 assumed that that person committed the crime.

23 And reason we coined this term is because when  
24 we were evaluating cases based on indicia of unreliability  
25 and offering our opinions, in some cases, that didn't fit

1       into these four categories were, in our opinion, almost  
2       certainly to be likely confessions, police and prosecutors  
3       involved in those cases complained and instead of focusing  
4       on findings of studies of aggregates of false confessions,  
5       they would -- one person in particular would challenge some  
6       of the individual cases.

7               And, so, I and another scholar coined this  
8       phrase of proven false confession, which is very  
9       conservative criteria, to say, okay, here's a smaller set of  
10      cases where we can prove it was false even though the  
11      universe of false confessions is much larger than that.

12           **Q.**       So understanding that if we're talking about a  
13      Venn diagram, a very small circle within a much larger  
14      circle, according to your research and perspective, this  
15      case definitely does not fall within that very small circle,  
16      does it; none of those four factors apply?

17           **A.**       To my knowledge, yes. I wasn't asked to  
18      evaluate that, but yes.

19           **Q.**       In your review of the video, the Miranda rights  
20      were read very, very early on in the interview, is that  
21      correct?

22           **A.**       Correct.

23           **Q.**       And there was nothing coercive or inappropriate  
24      about how those were handled, was there?

25           **A.**       I don't believe so.

1           **Q.**       There were no techniques of any kind used to  
2       elicit a waiver of those Miranda rights, were there?

3           **A.**       Not to my recollection, no.

4           **Q.**       And none of the techniques -- you listed several  
5       techniques. You said there is about half dozen core  
6       techniques and you listed a great many of them. None of  
7       those are unlawful techniques, are they?

8           **A.**       Well, you know, promises and threats just  
9       depends on the Court reviewing, you know, what is a promise  
10      and a threat. And there's federal constitutional law.  
11      There's also splits in terms of how judges analyze it.

12                    But I think it's fair to say that oftentimes  
13      promises and threats are regarded as unlawful by the courts  
14      and, oftentimes, they are not.

15          **Q.**       Okay. So you're saying that it's not an  
16      outright lying sort of situation?

17          **A.**       Particularly in promises and threats, yeah.

18          **Q.**       Particularly in that one, but the vast majority  
19      of what you looked at and outlined, not unlawful?

20          **A.**       Correct.

21          **Q.**       Even the false evidence ply which you identified  
22      as being used in this case, it's not unlawful?

23          **A.**       Correct.

24          **Q.**       And you talked a great deal about -- in this  
25      specific case, you said that they brought him to the police

1 department and you believed there was rapport building  
2 there, is that correct?

3 A. I thought so. I thought that -- unless I'm  
4 misremembering, that, you know, the interrogation doesn't  
5 really get going until around page 15 or 20 and, so, there  
6 was just some open-ended questioning --

7 Q. Okay.

8 A. -- in the beginning prior to the interrogation  
9 getting accusatory.

10 Q. It's not coercive to build rapport with someone,  
11 is it?

12 A. Correct.

13 Q. And -- but this was a guilt presumptive  
14 interview/interrogation?

15 A. I thought so, yes.

16 Q. But that in and of itself is not necessarily  
17 coercive, is it?

18 A. Correct.

19 Q. And the challenged his denials and confronted  
20 him with evidence?

21 A. Correct.

22 Q. That's how you observed this to proceed.  
23 You talked about the narrowing of options in  
24 this minimization/maximization, I guess, two scenarios,  
25 alternative scenarios --

1           **A.**       Correct.

2           **Q.**       -- a great deal.

3                   It could have been an accident or it could have  
4       been a rape was basically the two extremes that it was sort  
5       of laid out as?

6           **A.**       Correct.

7           **Q.**       But what the Defendant ended up confessing to,  
8       he steadfastly denied accident, and even when offered an  
9       opportunity, he elaborated further and didn't just set the  
10      facts down?

11          **A.**       Well, in a sense, that's correct. He was trying  
12      to adopt their account as well.

13          **Q.**       So if minimization and maximization is coercive  
14      as you say, why would he go beyond the bare minimum, the  
15      good scenario?

16          **A.**       My recollection is that they didn't believe it  
17      was an accident once they got him to admit to the initial  
18      act. Sometimes the people were so broken down in  
19      interrogation that they will say anything to please their  
20      interrogators just to get out.

21          **Q.**       That is sometimes the case, sure. And in cases  
22      like that, you often see very visible signs of duress, don't  
23      you?

24          **A.**       In some cases, yes, not in all.

25          **Q.**       Aren't the visible signs of duress the most

1 effective means of evaluating whether a person is, in fact,  
2 suffering from undue stress or duress?

3 A. Not always, no. Sometimes people will look very  
4 composed even if they have been interrogated for several  
5 hours.

6 Q. In this case, you had an opportunity to review  
7 the video. Did you ever see the Defendant crying?

8 A. I don't recall seeing that, no.

9 Q. Did you ever see the Defendant stand up and  
10 begin pacing or anything like that?

11 A. I don't recall seeing that, no.

12 Q. He's not sweating profusely, wiping his face,  
13 you know, in that respect?

14 A. I don't recall seeing that.

15 Q. He doesn't get very demonstrably upset at much  
16 of anything, does he?

17 A. Not that I recall.

18 Q. He does, however, get rather engaged about the  
19 90-minute mark after Detective Iadonisi is the only person  
20 in the room, doesn't he?

21 A. I don't recall his level of engagement changing,  
22 but, you know, I watched the videotape close to when I was  
23 retained. When I reviewed for testimony, excuse me, I  
24 worked off the transcript. So I don't recall particular  
25 change in the 90-minute mark. Since there's a record of it,

1 we could look to that. It's possible I'm just not  
2 remembering.

3 Q. Okay. Generally speaking, it wouldn't be a sign  
4 of duress or coercion for a person to lean towards the  
5 person who is coercing them; that's not, psychologically  
6 speaking, the normal response you would expect from someone  
7 who is experiencing a stressful situation?

8 A. Well, we all respond differently to stress, but  
9 I don't think that's a normal reaction, but I don't think  
10 it's an abnormal reaction, either.

11 Q. What about smiling or leering, would that be  
12 indicative of coercion in your -- indicative of duress in  
13 your opinion?

14 A. I don't think it's a good indication. Sometimes  
15 people smile out of nervousness inappropriately, but I don't  
16 think it's a good sign of whether somebody is or is not  
17 feeling coerced.

18 Q. When you talk about the length of an  
19 interrogation, you said some people sit very quietly for  
20 long interrogations. The major factor that you're looking  
21 at as far as how long interrogation runs is the time it  
22 takes to overcome the denial, isn't that correct?

23 A. Yeah, I mean, I guess that would be correct. We  
24 often measure the entire time, so, you know, the time the  
25 interrogation begins to the time it ends, so we would call



1       this 3-hour interrogation, even it was an hour or three  
2       hours when he agreed to the first admission.

3           **Q.**       So it would be a 3-hour interrogation of which  
4       there were admittedly long portions where he was left alone  
5       in the room, approximately 10 minutes to begin the  
6       interrogation, another period of several minutes during the  
7       middle, and then towards the end, he was also left to his  
8       own devices, correct?

9           **A.**       That's my recollection, yes.

10          **Q.**       He wasn't being asked questions that entire  
11       time?

12          **A.**       Correct.

13          **Q.**       And as far as that interrogation went, the  
14       period that it took for him to shift from denying outright  
15       to confessing was approximately 90 minutes, isn't that  
16       correct?

17          **A.**       That sounds right.

18          **Q.**       And in your research, you found a very strong  
19       statistical correlate between interrogations that last  
20       longer than six hours and false confessions, isn't that  
21       correct?

22          **A.**       Correct.

23          **Q.**       So this would not qualify for that particular  
24       warning flag?

25          **A.**       Correct.

1           **Q.**       Are you heard the testimony of both Detective  
2 Cable and Detective Lambert today in court, correct?

3           **A.**       Yes.

4           **Q.**       And they made specific reference to attempting  
5 to -- let me see if I can find the exact quotes.

6                   "Try to make him at ease, make him comfortable,  
7 relax and be truthful," that's what Detective Cable said, is  
8 that correct?

9           **A.**       I think so.

10          **Q.**       And Detective Lambert indicated that she left  
11 the room specifically because sometimes people feel more  
12 comfortable talking about sexual matters without a woman  
13 present, isn't that correct?

14          **A.**       That's what she said.

15          **Q.**       Aren't both of those sort of contrary to the  
16 theory that police interrogations must be a continued  
17 ramping up of a stressful environment? These people are  
18 actively making decisions to increase his comfort level in  
19 the hopes that he will be voluntarily truthful?

20          **A.**       I don't think it's necessarily, first of all, if  
21 that's accurate, but I don't think it's necessarily --

22          **Q.**       Well, do you have any reason to disbelieve  
23 that's what they said?

24          **A.**       Okay. So can you repeat them one by one?

25          **Q.**       I apologize.

1                   First off, Detective Cable indicated that he --  
2                   his belief was that you try to make them at ease, make them  
3                   comfortable, to relax and be truthful?

4                   **A.**           That is inconsistent with the Reid method in the  
5                   sense that you have efforts about increasing anxiety, but  
6                   it's consistent with it if the detective thinks that  
7                   strategically that's going to maximize the confession.

8                   **Q.**           So, as I understand it, coercive pressure is  
9                   inappropriate but also actively attempting to reduce the  
10                  course of pressure is itself a form of coercion?

11                  **A.**           I didn't mean to suggest it's a form of  
12                  coercion. It could be to mix things up the interrogator is  
13                  trying to use a different approach.

14                  **Q.**           But not every new or different approach is  
15                  necessarily coercive?

16                  **A.**           Most are.

17                  **Q.**           Most are, okay.

18                                You identified specifically the implied promises  
19                                as being problematic, is that correct?

20                  **A.**           Yes, or were a functional equivalent of implied  
21                  promises, yes.

22                  **Q.**           Functional equivalent of implied promises.  
23                  Because these were -- let me see if I can find what you  
24                  said. These were psychologically coercive  
25                  maximizing/minimizing tactics that "shade into implied

1 promises," is that correct?

2 A. Can do that, yes.

3 Q. And that those come with increased risk?

4 A. Correct.

5 Q. Can you quantify the increased risk in this case  
6 of a false confession?

7 A. No, I couldn't quantify the increased risk.  
8 There's experimental studies where, in that study, they will  
9 show the increased risk when you use minimization or  
10 maximization or other techniques, but I can't generalize  
11 from that to this case.

12 Q. So it does increase the risk, you just can't  
13 tell to what degree?

14 A. In this case, correct.

15 Q. If any?

16 A. Correct.

17 Q. You talked about reliability of confessions and  
18 that there was some issue with scripting and contamination,  
19 is that correct?

20 A. Yes.

21 Q. And I believe that -- aren't those more  
22 questions for a jury rather than a hearing like this where  
23 you're talking about what is or isn't coercive?

24 A. I believe they are more likely to contribute to  
25 unreliability and the perception of reliable confessions

1       unreliable, then they are to contribute to coercion or  
2       voluntariness. Although if one feels coerced and there has  
3       been contamination in scripting, one may feel compelled to  
4       repeat back the account along with the details that the  
5       interrogator is seeking.

6           **Q.**       So it's not actually a solid indicator of  
7       coercion in this case, is that correct?

8           **A.**       Correct. I'm primarily focused on the  
9       minimization and maximization, the suggestions of help and  
10      of fixing it for him.

11          **Q.**       Let's talk about fixing it. To fix something is  
12      to make a broke thing better or whole, correct?

13          **A.**       Yes.

14          **Q.**       That doesn't necessarily mean that -- I don't  
15      fix my broken bicycle by throwing it in the trash and never  
16      see it again?

17          **A.**       Correct. I think in this context it means  
18      something a little bit different, but it is ambiguous.

19          **Q.**       So, using the term "fixing it" was -- it meant  
20      something but that something might be ambiguous?

21          **A.**       I do think it's inherently ambiguous. I think  
22      when you said it's making something whole, that is closer to  
23      what I think it meant in this case.

24                   MR. EASON: May I have just a moment, your  
25      Honor?

1 THE COURT: You may.

2 BY MR. EASON:

3 Q. What is your going rate for consulting on a case  
4 like this on an hourly basis?

5 A. I think it's 350 an hour.

6 Q. And approximately how many hours do you  
7 anticipate you will bill for this case including your  
8 testimony here in court?

9 A. I would guess 30 hours, 20 to 25 to 35,  
10 something like that, at the end of the day. That might be  
11 more, it might be less.

12 Q. I understand, I'm just trying to get a round  
13 figure.

14 As far as your transportation, the flight out  
15 from California, that is a long flight. Did you pay for  
16 that or was that ticket provided for you?

17 A. It was provided.

18 Q. There was some talk made about a polygraph in  
19 this case. Is there research on the, I guess, what would be  
20 called an instrumental interrogation, do you have any  
21 experience with that?

22 A. Yes.

23 Q. Can you talk to the Court a little bit about  
24 that and why it might matter?

25 A. Well, sometimes the polygraph is really designed

1 as an interrogation technique and, so, it's kind of a setup  
2 and doesn't follow the proper polygraph protocols and then  
3 the suspect fails or is told they fail and then that is used  
4 as an evidence ploy to suggest science has now proven the  
5 suspect to be lying to a 99 percent certainty and,  
6 therefore, they stop denying, something to that effect,  
7 right.

8 So the reason people who study polygraphs call  
9 certain polygraphs instrumental interrogation is because the  
10 polygraph is not being used so much as a truth verification  
11 or a lie detection instrument as it is being used as a prop  
12 to elicit a confession by forewarning the result when the  
13 suspect fails it and then using it as a sophisticated  
14 evidence ploy or ruse.

15 Q. And in this case, we don't have to consider  
16 whether or not it was intended in either direction for that,  
17 correct?

18 A. Correct, there was no polygraph.

19 Q. So, ultimately, the test that we're looking for  
20 as far as the legal evaluation is to determine whether or  
21 not the Defendant's will was overborne, his capacity for  
22 self-determination critically impaired; is that your  
23 understanding of the legal test that we're dealing with?

24 A. Yeah, more or less, yeah.

25 Q. But that is not the test that you have applied

1 when determining whether or not there was psychologically  
2 coercive interrogation employed here, is that correct?

3 **A.** Correct. I wasn't applying a legal test.

4 **Q.** So you're not applying the legal test in  
5 offering your opinion, you're applying a psychological test?

6 **A.** Well, psychological standards.

7 **Q.** Standards.

8 **A.** You could say a test, but if we describe it that  
9 way, it would be misleading because psychological tests are  
10 IQ tests and other sorts of tests and it's not that.

11 **Q.** So then we're talking about a psychological  
12 standard as opposed to sort of a legal standard?

13 **A.** Correct.

14 **Q.** And that legal standard is going to be up to the  
15 Judge in this case?

16 **A.** Correct.

17 **Q.** And you have not -- and you have not offered an  
18 opinion as to whether or not it has been met or not met in  
19 this case and you couldn't?

20 **A.** Correct. Not as a matter of law, correct.

21 **Q.** So, again, your primary contention as far as the  
22 nature of the psychologically coercive activity that took  
23 place, and these are your words, is that the maximization  
24 and minimization and specifically the use of the word "fix"  
25 shaded into implied promises with an increased risk for a



1       coursed confession, is that correct?

2           **A.**       More or less. I also mentioned the offers of  
3       help and the minimization of particular repeated references  
4       to just did it accidentally and contrasting that with  
5       touching, with alleged digital touching with the penile  
6       rape, but I think you captured the essence of it in how you  
7       said it, I was just saying there was little bit more to it  
8       than what you stated.

9           **Q.**       You said that the strongest, the most  
10      troublesome were the maximization and the minimization and  
11      the offer to -- the explanation of fixing it which you said  
12      shade into implied promises?

13          **A.**       Yes, the maximization/minimization and offers,  
14      too.

15          **Q.**       That's fine.

16               MR. EASON: I think those would be my questions  
17      for this witness.

18               THE COURT: Redirect by the Defense.

19               MS. SISON: Thank you.

20                       REDIRECT EXAMINATION

21      BY MS. SISON:

22          **Q.**       Dr. Leo, you were hired to discuss the  
23      psychological standards, correct, not the legal opinion?

24          **A.**       Correct, correct, yes.

25          **Q.**       And the reason that you were hired is because

1       you have specialized knowledge that is not available to  
2       common person, even people in the legal field as we are?

3           **A.**       That's my understanding, yes.

4           **Q.**       All right. And, so, what you were hired for is  
5       to determine whether or not, based on your expertise,  
6       coercive techniques were used in this case?

7           **A.**       Correct.

8           **Q.**       And just to identify what those techniques are  
9       to provide that information to the Court?

10          **A.**       Correct.

11          **Q.**       Now, Mr. Eason asked you about the polygraph and  
12       instrumental interrogation. Now, in this case, Mr. Jumper  
13       readily agreed to have a -- being polygraphed?

14          **A.**       Correct.

15          **Q.**       Does that indicate anything to you?

16          **A.**       Well, you see that oftentimes in false  
17       confession cases, but I don't think you can infer that  
18       because somebody agrees to a polygraph that's indicia of a  
19       false or unreliable confession.

20          **Q.**       But, I mean, the fact that he did, could that  
21       also indicate the opposite, that he isn't?

22          **A.**       Certain --

23               MR. EASON: I'll object as to that conclusion.

24               THE COURT: I'll sustain the objection.

1 BY MS. SISON:

2 Q. And in this case, no polygraph was ever given?

3 A. Correct.

4 Q. But he was willing to take one?

5 A. Correct.

6 Q. Now, sir, you indicated that the usual time, I  
7 think that's based on your 2010 article, under six hours  
8 would not normally be -- I mean, would be an indicator of  
9 not it being a coercive technique?

10 A. Well, not really. So, in one of the studies, we  
11 found that -- false confessions study being published to  
12 date, we found that most of the ones were over six hours  
13 and, so, not all of them, but there was a strong  
14 correlation, as we've said, between length of time over six  
15 hours and false confession. Now there were plenty of  
16 examples of false confessions that were applied to  
17 interrogations less than six hours, but that was one of the  
18 striking patterns that we found in that study.

19 Q. So, in other words, you could still have  
20 coercive techniques used in an interrogation that lasted  
21 less than six?

22 A. Absolutely. And you can also have a coercive  
23 techniques that didn't result in a false confession or a  
24 proven false confession. In that particular setting, it was  
25 about proven false confessions, it wasn't been coerced

1 confessions.

2 Q. And then you were also asked about mixing -- I  
3 think -- I forget who said mixing things up with people  
4 coming in and out and different questioning. Now, that may  
5 not be a coercive technique, but certainly it is a factor in  
6 what happens in a person who is being questioned?

7 A. It could add to the pressure; I wouldn't say  
8 it's a coercive technique.

9 Q. And part of creating that kind of environment  
10 where there's psychological coercion would be to increase  
11 the anxiety levels of somebody that's being questioned,  
12 would that be fair to say?

13 A. Correct. As I mentioned, that's what the Reid  
14 method says about psychology of confession.

15 Q. That can happen in any method depending on the  
16 person?

17 A. Well, yes. There are some people who just being  
18 in the room will experience pressure, so people will react  
19 differently to the pressure, but some interrogations,  
20 obviously, are more psychologically pressure filled than  
21 others.

22 Q. And then Mr. Eason also talked about duress and  
23 he asked you about Mr. Jumper did not cry during the  
24 interrogation. Does the absence of him not crying indicate  
25 that there were no coercive techniques used?

1           **A.**       I would not say that.

2           **Q.**       And what about him not pacing?

3           **A.**       Again, same answer.

4           **Q.**       What about not sweating?

5           **A.**       Again, same answer.

6           **Q.**       Okay. And, so, you were also asked about him  
7 looking like he was rather engaged and we don't know  
8 specifically what that is. That can also mean a number of  
9 things other than what Mr. Eason suggested, is that fair?

10          **A.**       Correct. It's open to several different  
11 possible explanations if it occurred, yes.

12          **Q.**       So an interpretation may be that he thinks he's  
13 going to get out even though that was not implied, the fact  
14 that there was --

15          **A.**       Correct.

16          **Q.**       And in this particular case, I believe that the  
17 videotape lasted about three hours, so that was from the  
18 time he was put in the room to the time that he left?

19          **A.**       Correct.

20          **Q.**       And -- but there was also time when he had been  
21 arrested and driven -- or I should say picked up and driven  
22 to the location at police headquarters, that's not factored  
23 into that time?

24          **A.**       Correct.

25          **Q.**       And that could possibly play into a particular

1 person's anxiety level?

2 **A.** It could, yes. It could also play into the  
3 tiredness fatigue, I'm not saying it necessarily did, but it  
4 could.

5 **Q.** And, so, here you were just asked not to  
6 evaluate Mr. Jumper but just the confession itself?

7 **A.** Well, the interrogation and the statements that  
8 were made within the context of the case, yes.

9 **Q.** And Mr. Eason also asked you questions about the  
10 proven false confession, that there were four examples where  
11 it doesn't happen. We don't know yet what's going to happen  
12 in this case, correct?

13 **A.** Correct.

14 **Q.** We may find out there's another perpetrator at  
15 some point in the future?

16 **A.** Certainly possible, yes.

17 **Q.** So we can't rule any of those things out?

18 **A.** Not definitively, correct.

19 **Q.** All right. And then, Dr. Leo, you also -- when  
20 we talked about the 2010 article, so that's about nine years  
21 old at this point?

22 **A.** Correct.

23 **Q.** And I believe you testified that this is a field  
24 that evolved?

25 **A.** Correct.

1           **Q.**       So, depending on the culture, in this case  
2           American culture, there are certain things that they find  
3           more helpful or more harmful, it may change things?

4           **A.**       Correct.

5           **Q.**       And, so, what was -- even though only several of  
6           your suggestions were taken into consideration doesn't mean  
7           that this particular interrogation was not filled with  
8           psychological coercion, is that right?

9           **A.**       Correct.

10           MS. SISON: Thank you.

11           No more questions, your Honor.

12           THE COURT: Thank you, Professor. You may step  
13           down.

14           MS. SISON: Your Honor, that would be my only  
15           witness.

16           THE COURT: All right. Ms. Sison, so your  
17           evidence is complete?

18           MS. SISON: Yes, correct.

19           THE COURT: Any rebuttal by the Government?

20           MR. EASON: No, your Honor.

21           THE COURT: All right. I'm ready to hear  
22           argument. I'll hear from the Government first.

23           MR. EASON: Thank you, your Honor.

24           Your Honor, the standard in the case is question  
25           of whether or not a incriminating statement is involuntary

1 and that is solely on the basis of a statement being  
2 induced by such duress or coercion that the suspect's will  
3 has been overborne and his capacity for self-determination  
4 has been critically impaired.

5 The court indicate that it's a totality of the  
6 circumstances argument, but there are three major factors  
7 to consider. The first major factor are the  
8 characteristics of the Defendant, then there's a setting  
9 of the interview and, finally, there's the details of the  
10 investigation.

11 Now, your Honor, we had testimony from Dr. Leo  
12 regarding characteristics of the Defendant specifically  
13 with regard to his susceptibility to these types of  
14 coercive police tactics and we have no indication of  
15 anything other than he is Native American of a specific  
16 tribe of Native Americans and some research has imputed to  
17 other tribes of Native Americans that they may be  
18 susceptible.

19 The Defendant, so far as everybody was aware,  
20 was of sound mind, he never complained of any ailments of  
21 any kind, physical or mental. He never demonstrated any  
22 confusion or lack of understanding about the process,  
23 about what was going on. All of his responses were  
24 appropriate by all accounts from all the persons who were  
25 involved in the interview. He was engaged, he was



1        understanding, he responded appropriately. We have no  
2        indication that this Defendant and his specific  
3        characteristics was in any way more or less susceptible to  
4        coercive -- to any coercion than the average person.

5                So then we look to the setting of the interview,  
6        which was conducted at a police department, and it was  
7        interview, the interview was videotaped. Your Honor has  
8        an opportunity to review that. There was a transcript  
9        prepared. He was placed in a room that does not lock,  
10       closest to the door where no one obstructed his ability to  
11       leave. And he was interviewed for a period of  
12       approximately for -- the video ran for three hours, of  
13       which approximately two and a half hours involved  
14       questions. He was given breaks, he was offered water, he  
15       was offered food, he was offered chances to use the  
16       restroom. And he was allowed to keep his phone.

17               And, your Honor, I harped on this a little bit  
18       in the proceedings because there's been a lot made about  
19       the notion of isolation as a contributing factor to  
20       coercion. And, your Honor, it might have sounded silly at  
21       the time that I was talking about the free wi-fi in the  
22       Cherokee court, but it does matter, your Honor, because so  
23       long as you -- in our modern day of technology, as long as  
24       you have these little black squares or rectangles, you  
25       aren't isolated. You can reach out at any time to anyone

1           you might need to, family, friends, attorneys.

2                       He was in -- he was not isolated during this  
3 interview. He had access to the entire world at his  
4 fingertips and he could have called at any time for  
5 anyone. And your Honor can watch the video, he may be  
6 texting with people, he may be browsing the web. I'm not  
7 sure what he's doing, but he has his phone with him during  
8 that time period.

9                       And that should be considered as far as the  
10 setting of the interview. It's not that he was isolated  
11 in some dark box and then kept away from people who might  
12 have helped him. Just the opposite, he was put in a room  
13 where the officers specifically said their goal was to  
14 make him relatively comfortable so he could be forthright  
15 and that then he would engage with them and tell them the  
16 truth, and he had access to his cellular telephone the  
17 entire time, which I believe, your Honor, is a substantial  
18 factor that should weigh in favor of the Government.

19                      Finally, the details of the investigation, your  
20 Honor, is where --

21                      THE COURT: Go to the third element. Let me ask  
22 you one thing. You mentioned -- you referenced he was  
23 offered food. I don't recall that in the evidence.

24                      MR. EASON: I believe that, in my view of the  
25 videos and the -- that he was offered a snack, but I'm not

1           sure that he took it up. I think that was one of the  
2           first things that they said, can we get you a snack or  
3           something to drink, and he initially declined.

4           THE COURT: (Nodding head).

5           You may proceed.

6           MR. EASON: Thank you. And I may be  
7           disremembering, but that is my recollection of the video  
8           when I watched it.

9           Now, the last part is the details of the  
10          investigation, which we're talking specifically about the  
11          interrogation itself right now. First of all, your Honor,  
12          coercive police activity is a necessary finding for  
13          Miranda for any type of -- for a confession or a Miranda  
14          waiver to be rendered involuntary and there was absolutely  
15          no activity, coercive or otherwise, according to Dr. Leo,  
16          involved in the waiver of the Miranda rights.

17          So what we're left with at this point is whether  
18          or not there was coercive activity sufficient to render  
19          his confession involuntary. The courts have been specific  
20          that the mere existence of threats or violence or implied  
21          promises or even improper influence does not automatically  
22          render a confession involuntary.

23          So, your Honor, we would argue that other than  
24          the inherently coercive nature of the police  
25          interrogation, which can't be avoided, that is the nature

1 of what a police interrogation is, that's the reason why  
2 the Court in Miranda elected to create those safeguards  
3 was sort of as a prophylactic against that inherent  
4 coercion.

5 But beyond that, there is nothing about this  
6 interview that was sufficiently coercive to rise to the  
7 level of police misconduct necessary to override the  
8 Defendant's will or to render his capacity for  
9 self-determination critically impaired.

10 THE COURT: And in the mind of the Government,  
11 were any of the interrogation techniques employed by the  
12 detectives in this case psychologically coercive?

13 MR. EASON: Your Honor, I think Dr. Leo  
14 testified that the minimization and maximization had the  
15 capacity to be coercive but is not inherently coercive,  
16 and that that may have been something, but as far as -- I  
17 guess the question is whether or not is how we define  
18 coercive. It may have played to his desire to confess or  
19 to absolve himself of guilt or to other things, but  
20 whether or not it was intended to overbear his will, that,  
21 your Honor, I don't believe that we saw any evidence of an  
22 intent to overbear the Defendant's will to get him to say  
23 or do things outside of the truth, to say the truth.  
24 That's all the officers indicated they wanted, his story,  
25 they wanted to the truth.

1           If the totality of the circumstances surrounding  
2           an interrogation reveal both an uncoerced choice and a  
3           requisite level of comprehension that a Court may  
4           appropriately determine a waiver or a statement to be  
5           voluntary. And, so, your Honor, we would argue that,  
6           based on the totality of the circumstances, looking at the  
7           Defendant, looking at the setting and nature of interview  
8           and looking at the totality of the circumstances and all  
9           of the conversations used in the interview, that we simply  
10          don't rise to the level of coercive police activity. Or  
11          if your Honor does find that there is some coercion, it's  
12          not just enough there be some coercive police activity, it  
13          has to be sufficient to overbear the will of the Defendant  
14          or to render his capacity for self-determination,  
15          critically impaired. This is an exceptionally high bar in  
16          our argument.

17                THE COURT: Let me explore that further; that  
18                was the point of my last question.

19                Does the Government believe that any of the  
20                techniques employed in this interrogation were in and of  
21                themselves coercive and/or, if not, was there a coercive  
22                atmosphere in that room?

23                MR. EASON: Your Honor, there may well have been  
24                a coercive atmosphere in that room and some of the  
25                techniques taken together may constitute coercion, but

1       it's not just the presence or absence of coercion, it's  
2       coercion sufficient to basically render the Defendant  
3       incapable of surviving that coercion. And from all of the  
4       testimony that we've heard from the video and from the  
5       transcripts, your Honor, we would argue that that simply  
6       is not true.

7               THE COURT: In other words, the confession that  
8       the Defendant provided may have been subject to some  
9       amount of coercion but it was not otherwise  
10      constitutionally affirmed.

11             MR. EASON: Your Honor, it may have been the  
12      result of officers' continued -- your Honor, there has to  
13      be some sort of interplay between the officers and the  
14      Defendant to move the Defendant from the denials to the  
15      admissions and we accept that that's part of the nature of  
16      an interrogation.

17             Arguably, and I'm sure there will be argument,  
18      that could be determined to be coercive, but just because  
19      it is coercive does not render it -- does not render his  
20      confession involuntary for the purposes of the  
21      Constitution.

22             THE COURT: And is the Government -- and I'm  
23      sorry if you told me this and I've missed it -- is the  
24      Government acknowledging there was some amount of coercion  
25      involved in the questioning, I will say, of the Defendant?

1           MR. EASON: Your Honor, if you put it to me like  
2           that, then I have to say that there was pointed and  
3           strenuous questioning that could, under circumstances,  
4           rise to -- to be considered to rise to the level of  
5           coercion.

6           THE COURT: What I understand is some amount of  
7           coercion is acceptable and not, for lack of a better word,  
8           illegal, but there is a delta between the amount of  
9           coercion that is acceptable and the amount that would make  
10          a confession improper. Is that what I heard you say?

11          MR. EASON: Well, I'm quoting, your Honor, from  
12          the United States versus Braxton when I say that. That's  
13          112 F3d 771, which is a Fourth Circuit case from 1997,  
14          which indicates that the mere existence of threats, which  
15          we don't have here, violence, which we don't have here,  
16          implied promises, which Dr. Leo, the closest he came was  
17          that something that was said shaded into an area where it  
18          was almost implied promises. Improper influence or other  
19          coercive police activity does not automatically render a  
20          confession involuntary.

21          THE COURT: So what is the Government's argument  
22          as to the size of the delta there?

23          MR. EASON: Your Honor, as to the size of the  
24          delta, this was, by all accounts, a professional, polite,  
25          restrained interrogation of a suspect, the kind which we

1       should encourage all officers to emulate. There were no  
2       threats, no violence, he was allowed to keep his phone, he  
3       was offered to be made comfortable.

4               I don't understand how a police interrogation  
5       could function in its intended capacity or in any capacity  
6       without some potential level of psychological coercion  
7       mandated just by the nature of an interrogation, custodial  
8       interrogation. That was sort of the point here, your  
9       Honor, that the Court in Miranda made was that there is  
10      inherently psychologically coercive situations created by  
11      custodial interrogations.

12             THE COURT: So the Government would acknowledge  
13      he was in custody for the purposes of Miranda?

14             MR. EASON: Your Honor, it's an argument that  
15      could be made but that we're not going to make at this  
16      time. And we -- he was given his Miranda warnings as a  
17      prophylactic but also appropriately in this case, we would  
18      argue. And Dr. Leo's testified that there was no coercive  
19      or trick or any type of activity happening that he was  
20      aware of prior to the giving of the Miranda rights in  
21      order to secure their waiver.

22             THE COURT: I think the answer, then, is yes?

23             MR. EASON: The answer is yes.

24             THE COURT: The Government is not contending he  
25      was not in custody?



1 MR. EASON: No, your Honor, we're not making  
2 that contention.

3 THE COURT: To avoid the double negative, the  
4 Government would acknowledge he was in custody when he was  
5 interrogated?

6 MR. EASON: Yes, your Honor, we will argue that.

7 Finally, I would just argue that the remedy in  
8 this case that is being sought by the Defendant is one  
9 that must be used as a last resort according to the  
10 courts. Hutson versus Michigan, 547 US 586, 2006 Supreme  
11 Court case, says suppression is a remedy of last resort  
12 because it requires for exclusion to be appropriate -- the  
13 deterrence benefits of the suppression must outweigh the  
14 heavy cost of throwing out a confession.

15 The purpose of exclusion is to deter future  
16 violations of the Constitution and it applies only where  
17 the deterrent affect would outweigh the substantial cost  
18 of letting the possibly guilty and dangerous go free.

19 And under the circumstances, your Honor, from  
20 the video from the testimony, there is no police conduct  
21 so outrageous or so outlandish or so inappropriate that it  
22 requires this type of a sanction. It's just not  
23 appropriate as far as remedies go in this case.

24 By all accounts, from the testimony, from the  
25 video, the type of extreme inappropriate conduct that the

1 suppression rule was designed to deter simply does not  
2 exist in this case. United States versus Nielsen, which  
3 is a Fourth Circuit case from 2016, outlines things like  
4 threats of violence, lengthy marathon interrogations or  
5 extended isolation as things that they would want to  
6 deter. None of those are present in this case your Honor.

7 And, so, to sum up, the totality of the  
8 circumstances indicate that the Defendant's statements in  
9 this case were not extracted or obtained by threats or  
10 violence or direct or implied promises or the exertion of  
11 improper police influence on the Defendant. We'd ask the  
12 Court to find that the Defendant's statements were  
13 voluntary, that his waiver of Miranda was voluntary and  
14 that, as such, the motion to suppress should be denied.

15 Thank you.

16 THE COURT: Before you sit down, let me ask you  
17 a question about the burden of proof. What is the  
18 Government's position regarding that issue?

19 MR. EASON: It's a preponderance of the evidence  
20 that the Government must prove by the preponderance of the  
21 evidence that a confession is voluntarily obtained.

22 THE COURT: Is there a threshold showing that  
23 the Defendant must make on a suppression issue?

24 MR. EASON: Your Honor, I'm not sure. I simply  
25 don't know. I know that it's my burden to produce the

1 evidence by a preponderance that it was obtained  
2 voluntarily.

3 THE COURT: Thank you, sir.

4 Ms. Sison.

5 MS. SISON: Your Honor, first and foremost, Mr.  
6 Eason said that this is not police misconduct. I don't  
7 think that we're here today to say that the police acted  
8 in a way that would amount to misconduct. What we're  
9 saying is this: That they acted in a way to affect  
10 psychological coercion upon a man so that he went from I  
11 didn't do that, I didn't do this, denials for about two  
12 hours, to whatever you say, and that's the change, that's  
13 where the will was overborne.

14 Now, it may be subtle but it's no less  
15 pernicious. And I think part of the problem here is  
16 people want to see somebody either beaten up or that  
17 there's yelling and screaming or something much more to  
18 say that there was psychological coercion, but that's not  
19 what psychological coercion is. It may be but that's not  
20 all of it.

21 They worked on his will and they did in a number  
22 of ways. First, they go to his house. They don't tell  
23 him what they are there for, so they are already acting in  
24 a deceitful manner. We know for a fact there is an arrest  
25 warrant and also a several criminal complaints, but that's

1 something they tell him.

2 During the hour, now I don't know if we are to  
3 believe either men, one man said we didn't talk to him at  
4 all, the other man said we made small talk, but even  
5 during that hour, not once was he told that he was being  
6 looked at as a suspect. And I think that would raise  
7 somebody's anxiety.

8 I know the Government will say, oh, no, the fact  
9 that they didn't say anything, that's a good thing, but if  
10 you're sitting in a police car, marked or not marked, with  
11 people who are or aren't talking to you, you're still not  
12 home hanging out on your couch. It is not one of those  
13 situations where you're not going to be anxious.

14 So what you have here is a number of factors  
15 that I would say are relentless. Now they are not beating  
16 up on him, there's no doubt about that. They're probably  
17 speaking in tones -- and the Court will look that video,  
18 you will see that. So we're not claiming that, we're not  
19 claiming that they're threatening him, that they are  
20 showing their hands, I mean, but there are coercive  
21 tactics being used.

22 The fact that it takes place in a small room,  
23 could be anywhere from 6 to 8 or I believe it was 8 to 8,  
24 it's still a small room. And they say, well, he could  
25 have used the phone at any time. Well, he didn't know

1       that. There weren't rules, there weren't parameters that  
2       were set for him, he was just put in this room.

3               And they make it sound like he could have gotten  
4       up at any time and just leave and we know that's not the  
5       case. If he could have gotten up and leave at any time,  
6       that is one thing that they could have told him. You know  
7       you're not under arrest, you can leave at any time and, in  
8       fact, that was not their intention. Their intention was  
9       to get a confession and we know that because Sergeant  
10      Iadonisi said that's what we were there to do. It wasn't  
11      to -- he said, all said, we're here to get the truth, but  
12      it was truth as the police saw it. So that is not  
13      entirely the same thing.

14             And I think the fact that this is a man that  
15      readily said, fine, I'll take a polygraph. It may not  
16      mean anything as far as coercive techniques, but it  
17      certainly says something and addresses the fact that he  
18      said I didn't do this, I didn't do this, I didn't do this,  
19      and he kept saying that over and over.

20             And then if we look at the things that the  
21      police said, they made suggestions, there implied  
22      promises. And if you look at the techniques that Dr. Leo  
23      talked about, we have the presumption of guilt, the  
24      investigative bias that was present, the minimization and  
25      the maximization, the promise of and threats.

1           And then he said threats and promises are two  
2           different sides of same coin. The fact that they were  
3           saying, look, you know, after today, we're not going to be  
4           able to help you, let's work on this. Those are implied  
5           threats. I mean, they are not hitting him on the head  
6           with a book, they're not throwing something at him, but  
7           it's no less a psychological factors.

8           And as far as the interrogation it may not be  
9           the six hours, but, again, it doesn't mean that it was not  
10          a factor. We had a 3-hour interrogation and that doesn't  
11          count this time that he was placed in the car, then we  
12          would spread it out to even longer than that.

13          And then there was a false evidence ploy in  
14          which they were talking about specifics that a person  
15          would not have known if they had not participated in that  
16          and he didn't know any of these things. They kept pushing  
17          these things to him. They kept saying it's not an  
18          accident, you know she was part of it. So those are all  
19          the things to get somebody to break down.

20          Again, it's not same thing as taking a bat and  
21          beating him to death, but it's the same thing to break  
22          somebody down because he's thinking something good is  
23          going to come out of it if I just go along with them.

24          And, again, this was relentless. And as far as  
25          people coming in and out of the room, that is maybe not a

1 psychological technique, but, certainly, it is a technique  
2 to maximize or increase the anxiety a person would feel.

3 And, obviously, one of the statements that one  
4 of the witnesses said, it wasn't working. All of the  
5 things he was trying, it was not working. Okay. So  
6 that's tells you something. If something isn't working,  
7 then let's try something else until something works and  
8 that's exactly what happened in this case.

9 As far as the remedy, I mean, the only remedy in  
10 this case is to throw this entire case out. And part of  
11 it is what Dr. Leo said. He said part of the problem is  
12 when you have suggestions that only the police would know  
13 in a particular case and as provided to the jury, you  
14 could say there's some courts that say it does not. The  
15 fact that there are facts that a jury would say only a  
16 person can say that they would not have the information  
17 available to a common person, that these are some of the  
18 techniques that somebody uses.

19 So I think that also, the fact that they kept  
20 using deceit, and I'm not saying that they are mean  
21 people, I'm not saying that I think they went out of their  
22 way to, you know, beat something out of him, but I do  
23 think that collectively they worked together to  
24 cumulatively have this kind of effect. So, at the 2-hour  
25 mark, he broke, okay.

1           And the fact that, you know, if he is leaning  
2           over, and I don't recall that, but even if he is leaning  
3           over, perhaps that said, according to his characteristics,  
4           that, oh, good, I'm going to get out of here because I'm  
5           giving them something they want, they are responding to me  
6           because, for the first two hours, they were not responding  
7           to him. So that is a behavior that I could see happening  
8           after two hours of trying to break him.

9           And, so, your Honor --

10          THE COURT: Am I correct about the lack of  
11          reference to food?

12          MS. SISON: I don't remember that, your Honor,  
13          but I don't want to say that there is. As I recall, there  
14          was that bathroom break, but that was pretty much it. And  
15          as I recall, they -- this was during the evening hours.  
16          So I could see where this Court is going with that, but,  
17          unfortunately, I can't remember that at all.

18          THE COURT: It would be in the transcript if it  
19          was offered, though?

20          MS. SISON: Yes, your Honor.

21          And I think it's important in this case to also  
22          look at the video and not rely on transcripts because you  
23          know how sometimes words don't always convey the meaning  
24          behind it. And I think the video is very constructive  
25          because you will see some of these techniques in play. So



1       it's not just Dr. Leo saying something, but something that  
2       the Court, because of the knowledge that was imparted to  
3       this Court today, that we as normal laypeople would not  
4       know, I think those are some of the things that the Court  
5       should look at to determine whether or not these coercive  
6       tactics were used.

7               And Mr. Eason talked about looking in the  
8       totality of the circumstances and that's really what  
9       you're looking for. It's everything into this, it's not  
10      one particular thing. I know he said that there are three  
11      elements. Those are not the main elements, those are the  
12      things that the Court should look at but they are not the  
13      only things. And, certainly, there are other things based  
14      on what an interrogation is that I think the Court should  
15      also look to.

16             THE COURT: Would you agree with the  
17      Government's position about the burden of proof in this  
18      case?

19             MS. SISON: I do, your Honor. I think it is  
20      their burden.

21             THE COURT: Is there a threshold showing that  
22      the Defendant must provide before the Government -- I  
23      mean, the Court undertakes that kind of an issue?

24             MS. SISON: I don't believe so, your Honor. I  
25      think the fact that we alleged it is enough.

1           THE COURT: All right. One other question for  
2           you. I saw in the Government's briefing that it's  
3           indicated that it does not anticipate offering any  
4           evidence regarding Mr. Jumper's iPad and iPhone.

5           I need to ask Mr. Eason, Mr. Eason, let me ask  
6           you, is that still the Government's position?

7           MR. EASON: After a very exhaustive look at all  
8           of the contents, yes, your Honor, there was nothing  
9           probative that we could find.

10          THE COURT: Ms. Sison, in that regard, would the  
11          motion not be moot with respect to --

12          MS. SISON: That would be, your Honor. I think  
13          when it was drafted, we weren't sure yet if they had done  
14          any forensics on the two items, and ever since then, Mr.  
15          Eason did indicate to me that they have reviewed it  
16          exhaustively and they did not plan to present any evidence  
17          from either two of those electronic objects.

18          THE COURT: So the motion would go moot as to  
19          the consent to search the iPad and iPhone?

20          MS. SISON: That's correct, sir.

21          THE COURT: I need to deal with a grand jury  
22          matter at this time, so I'm going to take a recess for a  
23          few moments. We will take approximately 15 minutes. This  
24          is on your end of your argument, sounded like you are --

25          MS. SISON: I am, your Honor. I don't have

1 anything more to say.

2 THE COURT: Since you are at that point, I'll  
3 come back and I'll give the Government final argument and  
4 I may have a few closing things to do before we close the  
5 record.

6 MR. EASON: Yes, your Honor.

7 THE COURT: We will stand in recess for  
8 approximately 15 minutes.

9 (Brief recess was taken.)

10 THE COURT: I believe the Defense had concluded  
11 its argument.

12 Mr. Eason, I'll give the Government final  
13 rebuttal.

14 MR. EASON: Thank you, your Honor.

15 I'm just going to talk a little bit about, if I  
16 may, about the standards. Again, it is a preponderance of  
17 the evidence standard. The burden is on the Government to  
18 demonstrate by a simple preponderance that the Defendant's  
19 confession was voluntarily given.

20 Coercive police activity is necessary for  
21 finding confession or waiver involuntary. However, your  
22 Honor, in any given interrogation, there is always going  
23 to be some level of coercion getting a person from denial  
24 to admission.

25 The question of voluntariness has always

1 depended on the absence of police overreach and that's  
2 Colorado versus Connolly. So it's not just enough that  
3 there be coercion, it's that there has to be coercion and  
4 it has to be coercion that is beyond the pale, beyond what  
5 the police should be doing and intentional on their part.

6 The mere existence is not sufficient -- of  
7 coercion is not sufficient to render a confession  
8 involuntary, but, again, it's a but-for cause. If there's  
9 no coercion, there can't be any question of voluntariness;  
10 however, the presence of coercion does not automatically  
11 render a confession involuntary.

12 Again, the appropriate inquiry is if the  
13 Defendant's will has been overborne or his capacity for  
14 self-determination critically impaired. And that's an  
15 exceptionally high bar, your Honor. It's a totality of  
16 the circumstances argument which deals with a number of  
17 factors, but the courts have said most specifically that  
18 considering the characteristics of the Defendant, setting  
19 of the interview and the details of the investigation.

20 And, finally, your Honor that if the totality of  
21 the circumstances reveal both an uncoerced choice, even a  
22 decision to change from denial to admission, if prompted  
23 by some coercion, is not considered an over -- it's not an  
24 overridden will, it's not a capacity for  
25 self-determination that's been critically impaired because

1           it's still a choice to change in this case.

2                       And, so, it has to be revealed both an uncoerced  
3           choice and the requisite level of comprehension and, your  
4           Honor, nothing in the record under any circumstances  
5           indicates that the Defendant does not enjoy the requisite  
6           level of comprehension to make a voluntary statement. So,  
7           really, we're just looking at the totality of the  
8           circumstances test to see if there was coercion and, if  
9           so, was it so monumental and such a product of police  
10          overreach that it renders his confession involuntary.

11                     And, your Honor, then comes the question of  
12          remedy and we would argue that the remedy in this case is  
13          not suppression because suppression is a question of last  
14          resort. It's not even did the police do this, yes, they  
15          did, but suppression is reserved for the most grave of  
16          police misconduct. So, even if you find that the police  
17          did overreach and that they were being coercive and that  
18          the confession was a result of that, you still have a  
19          different inquiry on the question of suppression as to  
20          whether or not this conduct is so extreme and outrageous  
21          and so offends the moral principles of society and the  
22          protections of the Constitution, that the risk of -- that  
23          the deterrent effect outweighs the substantial cost to  
24          society of letting the guilty and dangerous go free.

25                     So, your Honor, it's a stairstep evaluation and

1 I would argue we aren't even on the first step, that, you  
2 know, such as it is, there is not enough police coercion  
3 to even raise an inquiry as to voluntariness, but if there  
4 is, it certainly doesn't rise to the level of suppressing  
5 the voluntariness. And even if it does, it certainly  
6 doesn't rise to the level of police overreach necessary to  
7 make suppression the appropriate remedy.

8 I know that Ms. Sison mentioned dismissal as a  
9 remedy and that's even further beyond. I don't know of  
10 any case law that indicates that the appropriate response  
11 for police successfully obtaining a confession is to  
12 dismiss the case because they used some type of  
13 psychological effort in that. I just don't know where  
14 that comes from, but, definitely, I don't think we've made  
15 it -- I don't even think we've made it to the question of  
16 whether or not there's enough coercion to question the  
17 voluntariness.

18 THE COURT: To be clear about that one point, I  
19 did hear Ms. Sison make that reference, but the only issue  
20 before this Court is whether the confession should be  
21 suppressed and whether this Court should issue a  
22 memorandum of recommendation to that effect.

23 MR. EASON: In that case, your Honor, I'll leave  
24 that issue alone and just end with the statement that,  
25 under the totality of the circumstances, the Government

1       has met its burden and then some, we would argue, that by  
2       a preponderance of the evidence, the Defendant's statement  
3       was voluntary and knowingly made and after he had been  
4       appropriately apprised of all the rights that he would  
5       have under Miranda. And, so, we would ask your Honor to  
6       deny the Defendant's motion to suppress at this time.

7               THE COURT: Thank you, sir.

8               Would there be any issues that either party  
9       believes should or would benefit from supplemental  
10      briefing?

11              Anything from the Government?

12              MR. EASON: Your Honor, I think what I have in  
13      my initial response is sufficient, so I wouldn't be asking  
14      to brief any further.

15              THE COURT: Ms. Sison.

16              MS. SISON: Your Honor, we will be happy to  
17      brief. I think maybe if we make references to some of the  
18      coercive techniques and then refer it to the video, that  
19      might be helpful for the Court or would you like --

20              THE COURT: I'm not looking for further  
21      briefing, I'm asking for the response to the question  
22      whether the parties think there are issues that need  
23      further briefing or that you would like to be heard  
24      further in that regard.

25              MS. SISON: No, your Honor. Thank you.

1 THE COURT: Thank you.

2 With regard to the exhibits, Government's  
3 Exhibit 1 is the video, and let me confirm I do have a  
4 copy of that and I do have that in chambers. Thank you  
5 for providing that.

6 Government's Exhibit 2 was the transcript as now  
7 amended. Those two have been admitted by stipulation.

8 Government's Exhibit 3 was the waiver of rights  
9 form that was submitted without objection.

10 Is there any objections to me considering any  
11 further information in the record? Specifically what I  
12 would be referring to, I think the only thing beyond the  
13 exhibits that have been offered today as I just discussed,  
14 Government's 1, 2 and 3, would be the exhibits to the  
15 Defendant's reply. Any objection to -- that actually  
16 includes the transcript as well.

17 Any objections by the Government to the Court  
18 reviewing those materials?

19 MR. EASON: No, your Honor.

20 THE COURT: And with respect to the exhibits,  
21 just to be clear, the copy I have is a copy and, Mr.  
22 Eason, you'll have the originals, you're going to keep  
23 that. I presume you'll have the original of the  
24 transcript and will keep those?

25 MR. EASON: Yes, your Honor.



1 THE COURT: Will there be anything further on  
2 any matters that needs to be addressed today?

3 MS. SISON: Your Honor, in regards to the  
4 exhibit with the transcript, it wasn't -- do you need me  
5 to do anything else or will the clerk's office deal with  
6 that? I didn't know if you needed me to resubmit it  
7 without that and file it separately?

8 THE COURT: As to the transcript, that will be  
9 sealed. That's already ordered, I believe that will be  
10 reflected on the docket. I'm ordering that to be sealed.

11 MS. SISON: So I don't need to do anything else  
12 about that, your Honor?

13 THE COURT: Correct.

14 MS. SISON: To submit separately?

15 THE COURT: Correct. I believe Madam Clerk, am  
16 I correct about that?

17 THE CLERK: Yes, Judge.

18 THE COURT: And, Mr. Eason --

19 MR. EASON: I'm going to redact and resubmit my  
20 exhibit, yes, your Honor.

21 THE COURT: Substitute that out for the record.

22 All right. Anything further then from either  
23 party? Mr. Eason from the Government?

24 MR. EASON: No, your Honor.

25 THE COURT: Ms. Sison?

1 MS. SISON: No, your Honor. Thank you.

2 THE COURT: Thank you both for your fine  
3 advocacy today. I will take this matter under advisement  
4 and I will issue an memorandum of recommendation in due  
5 course.

6 We will stand in recess.

7 (The proceedings were concluded at approximately  
8 3:47 p.m.)  
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REPORTER'S CERTIFICATE

I, BEVERLY BOURLIER JAMES, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 6th day of September, 2019.

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BEVERLY BOURLIER JAMES  
Registered Professional Reporter  
Certified Realtime Reporter  
Certified LiveNote Reporter  
Florida Professional Reporter  
Georgia Certified Reporter  
NCRA Realtime Systems Administrator

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